4-19-89
Vol. 54 No. 74

federal register

Wednesday
April 19, 1989

United States
Government
Printing Office
SUPERINTENDENT
OF DOCUMENTS
Washington, DC 20402

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SECOND CLASS NEWSPAPER

Postage and Fees Paid
U.S. Government Printing Office
(ISSN 0097-6326)

4-19-89
Vol. 54 No. 74
Pages 15739-15912

federal register

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

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

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2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

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

WASHINGTON, DC

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

CFR PARTS AFFECTED IN THIS ISSUE

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

Rules and Regulations

Federal Register
Vol. 54, No. 74
Wednesday, April 19, 1989

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 89-NM-51-AD; Amdt. 39-6197]

Airworthiness Directives; Aerospatiale Model ATR-42 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to Aerospatiale Model ATR-42 series airplanes, which prohibits use of the autopilot when operating in icing conditions. This amendment is prompted by an incident in which an Aerospatiale Model ATR-42 airplane operating in icing conditions experienced an autopilot disconnect and roll excursions. This condition, if not corrected, could lead to loss of control of the airplane.

EFFECTIVE DATE: May 3, 1989.

FOR FURTHER INFORMATION CONTACT: Mr. Robert McCracken, Standardization Branch, ANM-113; telephone (206) 431-1979. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: The FAA has recently received a report of uncommanded autopilot disconnect occurring on Aerospatiale Model ATR-42 series airplane while operating in icing conditions, resulting in roll excursions up to 80 degrees. In this incident, it was reported that ice buildup and asymmetric wing lift may have been masked due to use of the autopilot. This condition, if not corrected, could lead to loss of control of the airplane.

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

Since this condition is likely to exist or develop on other airplanes of the same type design registered in the United States, this AD requires a revision to the FAA-approved Airplane Flight Manual (AFM) which prohibits use of the autopilot when operating in icing conditions. This is considered to be interim action until final action is identified, at which time the FAA may consider further rulemaking to address it.

Since a condition exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

The regulations adopted herein will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation and is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required).

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, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

Aerospatiale: Applies to Model ATR-42 series airplanes, certificated in any category. Compliance is required within 10 hours time-in-service after the effective date of this AD.

To minimize the potential hazards associated with operating in icing conditions, accomplish the following:

A. Incorporate the following into the Limitations Sections of the FAA-approved Airplane Flight Manual (AFM). This may be accomplished by including a copy of this AD in the AFM.

"When operating in icing conditions, as defined in AFM, or when freezing rain is forecast or reported, use of the autopilot is prohibited.

WARNING

Prolonged operation in freezing rain should be avoided. Ice accretion due to freezing rain may result in asymmetric wing lift and associated increased aileron forces necessary to maintain coordinated flight. Whenever the aircraft exhibits buffet onset, uncommanded roll, or unusual control wheel forces, immediately reduce angle-of-attack and avoid excessive maneuvering."

B. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Northwest Mountain Region.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who may add any comments and then send it to the Manager, Standardization Branch, ANM-113.

This amendment becomes effective May 3, 1989.

Issued in Seattle, Washington, on April 7, 1989.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89-9333 Filed 4-18-89; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 89-NM-39-AD; Amdt. 39-6192]

Airworthiness Directives; Airbus Industrie Models A300, A310, A300-600 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to Airbus Industrie Models A300, A310, A300-600 series airplanes, which requires inspection of the engine fire extinguisher bottles for an electrical grounding defect and repair, if necessary. This amendment is prompted by reports that during production there was insufficient electrical bonding between the engine firex bottle cartridge and the airplane structure. This condition, if not corrected, could result in the inability to actuate the fire extinguisher bottle when needed.

EFFECTIVE DATE: May 1, 1989.

ADDRESSES: The applicable service information may be obtained from Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Greg Holt, Standardization Branch, ANM-113; telephone (206) 431-1918. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: The Direction Générall de L'Aviation Civile (DGAC), which is the airworthiness authority of France, has notified the FAA of an unsafe condition which may exist on Airbus Industrie Models A300, A310, and A300-600 series airplanes. There has been a report that during production there was insufficient electrical bonding between the engine firex bottle cartridge and the airplane structure. This condition, if not corrected, could result in the inability to actuate the fire extinguisher bottle when needed.

Airbus Industrie has issued All Operator Telex (AOT) 26/88/01, which describes procedures for inspecting the engine fire extinguisher bottles for electrical bonding defects, and repair, if necessary. The DGAC has classified AOT 26/88/01 as mandatory and has issued Airworthiness Directive 88-181-089(B) addressing this subject.

These airplane models are manufactured in France and type certificated in the United States under the provisions of Section 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement.

Since this condition is likely to exist or develop on other airplanes of the same type design registered in the United States, this AD requires inspection of the engine fire extinguisher bottles for an electrical bonding defect, and repair, if necessary, in accordance with the Airbus All Operator Telex described above.

Since a condition exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

The regulations adopted herein will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation and that it is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required).

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, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

Airbus Industrie: Applies to Model A300 series airplanes, on which Modification 1988 has been accomplished (Post Service Bulletin A300-54-022), and all Model A310 and A300-600 equipped with Walter Kidde or APCO fire extinguisher bottles, certificated in any category. Compliance is required as indicated, unless previously accomplished.

To prevent the inability to actuate the fire extinguisher bottles, accomplish the following:

A. Within 10 days after the effective date of this AD, inspect the engine fire extinguishers for an electrical bonding defect in accordance with Airbus All Operator Telex (AOT) 26/88/01. If defects are found, repair prior to further flight, in accordance with the AOT.

B. Whenever the fire extinguishers bottles are replaced, perform the inspection required by paragraph A., above.

C. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Northwest Mountain Region.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who may add any comments and then send it to the Manager, Standardization Branch, ANM-113.

D. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of the inspection/modification required by this AD.

All persons affected by this directive who have not already received the appropriate service information from the manufacturer may obtain copies upon request to Airbus Industrie, Airbus Support Division Avenue Didier Daurat, 31700 Blagnac, France. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective May 1, 1989.

Issued in Seattle, Washington, on April 4, 1989.

Steven B. Wallace,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89-9336 Filed 4-18-89; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 88-NM-160-AD; Amdt. 39-6184]

Airworthiness Directives; Boeing Model 737 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 737 series airplanes, which requires that protruding head solid fasteners be installed in the upper row of all lap splices in the fuselage and in the two rows of Stringer 17. This amendment is prompted by reports of cracking on Boeing Model 737 airplanes from which the FAA has determined that widespread multiple site cracking cannot be reliably detected over the long term by visual or other non-destructive inspection (NDI) techniques. This action is necessary to ensure that undetected widespread cracking is minimized in these fuselage skins. Cracks, if allowed to grow undetected, could lead to structural failure and rapid decompression of the airplane.

EFFECTIVE DATE: May 19, 1989.

ADDRESSES: The applicable service information may be obtained from Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Ms. Barbara J. Mudrovich, Airframe Branch, ANM-120S; telephone (206) 431-1927. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive, applicable to Boeing Model 737 series airplanes, which requires accomplishment of a terminating modification on all lap splices and along Stringer 17, which includes installation of protruding head solid fasteners, was published in the Federal Register on November 1, 1988 (53 FR 44163).

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

The Air Transport Association (ATA) of America, commenting on behalf of its members, suggested that the proposal be withdrawn or the compliance times extended because the proposed short compliance times are not justified by one report by one operator of a 12-inch crack found in an area of a previous repair. The FAA does not concur. Although the report of a 12-inch crack in an area inspected 6 months prior to discovery further emphasizes the FAA's determination that widespread cracking in lap splices cannot be adequately maintained by inspection, the FAA's proposal is based primarily on the numerous reports of cracking received. The FAA has determined that rivet replacement will eliminate the risk of undetected cracks joining, which can result eventually in an uncontrolled decompression of the airplane. This AD action is, therefore, both justified and appropriate.

As a result of extensive FAA efforts following the accident in Hawaii in April 1988, which involved a Model 737 series airplane, it became apparent that widespread, multi-site cracking was not being discovered to the degree of assurance necessary to maintain safety of the aging transport airplane fleet. This, coupled with a better understanding of the human factors associated with numerous repetitive inspections, has caused the FAA to place less emphasis on repetitive inspections and more emphasis on material replacement. Thus, as aircraft begin to show the signs of multi-site damage and other indications of structural aging, the FAA has decided to require airplane modifications necessary to remove the source of the particular aging phenomenon. This is in lieu of the previous position of continual inspection and repair/modification on condition if cracks are found. This final rule is in consonance with that policy decision.

Two operators requested that the compliance time for accomplishment of the terminating modification in the area between body station (BS) 259 and BS 360 be extended to 4 years or 80,000 flight cycles, whichever occurs first, based on the minimal reports of cracking in this area and reduced load levels. The FAA concurs with the commenters and has determined that, because of the lesser loads in this area, the modification can be delayed without adversely impacting safety. Paragraph B. of the final rule has been revised accordingly. The FAA has determined that this change will neither increase the economic burden on any operator nor expand the scope of the AD.

Two operators requested that the compliance time be extended so that the modification may be accomplished at the first heavy maintenance visit after the accumulation of 70,000 flight cycles. The FAA does not concur. In light of the fact that there have been reports of multiple site cracking on airplanes with as low as 45,000 flight cycles, the FAA has determined that extension of the proposed compliance time for modification, as requested, cannot be justified.

One operator requested that the compliance time be extended so that the modification may be accomplished within 15 months following inspection with high frequency eddy current. The FAA does not concur. The FAA has determined that, due to evidence of widespread cracking, the integrity of the lap splices cannot be assured by currently required inspection techniques, which have not been successful in some cases. For this reason, an aggressive schedule to modify the splice configuration, regardless of inspections previously accomplished, is necessary.

One operator commented that the proposed rule should only apply to the lap splices at Stringers 4 and 10. The FAA does not concur with the commenter, since evidence of multiple site cracking has been reported at lap splices other than at Stringers 4 and 10. Additionally, all splices have the potential for structural failure if widespread cracking is allowed to remain undetected.

Transport Canada commented that the terminating modification has not been shown to be adequate. The FAA does not agree with this commenter. The terminating modification will correct the basic design inadequacy of the lap joints by removing the knife edge due to countersunk fastener installations. Further, the designed fail-safe capability will be verified by assurance of the tearstrap bond, as required by paragraphs A.1. and A.2.

Transport Canada also questioned the rationale of the proposed schedule. The FAA chose a schedule that would aggressively minimize the potential for future structural failure or rapid decompression due to lap splice multiple site cracking. The proposal requested comments on more appropriate schedules and received various comments. As noted above, the proposed schedule has been revised due to one of the comments received on this subject.

One operator commented that the problems associated with fairing clearance and installation of protruding head fasteners need to be resolved. The FAA has determined that the lap splice

modification will not be compromised due to fairing interference. The manufacturer has developed fairing rework instructions to resolve this problem, and will revise its service bulletin instructions to add these instructions.

One operator requested that any alternate means of compliance approved for the terminating modification of AD 88-22-11, Amendment 39-6059 (53 FR 44163; November 1, 1988) should be approved for the proposed rule as well. AD 88-22-11 requires external and internal inspections of the skin along certain fuselage skin lap joints and bonded doublers; the terminating action provided for in that AD is identical to the modification required by the proposed rule. The FAA concurs and has revised paragraph E. of the final rule to specify that accomplishment of the requirements of this AD constitutes terminating action for the requirements of AD 88-22-11, and that any alternate means of compliance previously granted as terminating action for AD 88-22-11 is considered approved alternate means of compliance for this AD as well.

Paragraph A.2. of the final rule has been revised to clarify that the area where tearstraps must be assured to be functional is "one bay above and below S-17;" the Notice had inadvertently specified this area as "two bays above and one bay below S-17."

Paragraph C. of the final rule has been clarified to specify the referenced subparagraph of paragraph A. as "A.1."

Paragraph D. of the Notice incorrectly referenced Boeing Service Bulletin 737-53-1089, Revision 1, as one source for repair procedures for cracks found in the skin along the lap joints. That reference has been deleted from this paragraph in the final rule.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule, with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator, nor will they increase the scope of the AD.

There are approximately 291 Model 737 series airplanes of the affected design in the worldwide fleet. It is estimated that 100 airplanes of U.S. registry will be affected by this AD, that it will take approximately 2,016 manhours per airplane to accomplish the required modifications, and that the average labor cost will be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $8,064,000.

The regulations adopted herein will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic impact, positive or negative, on a substantial number of small entities, because few, if any, Model 737 airplanes are operated by small entities. A final evaluation has been prepared for this regulation and has been placed in the docket.

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, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

Boeing: Applies to Model 737 series airplanes, line numbers 001 through 291, certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent decompression of the airplane, accomplish the following:

A. In accordance with the schedule set forth in paragraph B. of this AD:

1. Accomplish the terminating repair at all lap joints between BS 259 and BS 1016, which includes replacing all upper row fasteners with standard protruding head solid fasteners and assuring the tearstraps are functional 2 bays above and 1 bay below each lap joint, by the use of mechanical fasteners where disbonding of the tearstraps has occurred, in accordance with Boeing Alert Service Bulletin 737-53A1039, Revision 4, dated April 14, 1988.

2. Accomplish the preventative modification as described in Boeing Service Bulletin 737-53-1089, Revision 1, dated October 13, 1988, along S-17, using standard protruding head solid fasteners and assure the tearstraps are functional 1 bay above and below S-17, by the use of mechanical fasteners where disbonding of the tearstraps has occurred, in accordance with the Structural Repair Manual.

B. Airplanes are to be modified as required by paragraph A., above, in accordance with the following times after the effective date of this AD:

1. For fuselage structure between BS 360 and BS 1016:

Number of landings on effective date of this AD	Modify within the next:
70,000 or more	6 months.
60,000 to 69,999	12 months.
50,000 to 59,999	18 months.
40,000 to 49,999	24 months.
Less than 40,000	36 months.

2. For fuselage structure between BS 259 and BS 360, accomplish the modifications prior to a. or b., below, whichever occurs later:

a. the accumulation of 80,000 flight cycles or 4 years after the effective date of this AD, whichever occurs first; or

b. one year after the effective date of this AD.

C. For airplanes on which the procedure described in paragraph A.1., above, has been accomplished in accordance with Part IV, A.2, of Boeing Alert Service Bulletin 737-53A1039, Revision 4, dated April 14, 1988, within 15 months after accomplishment, or within 6 months after the effective date of this AD, whichever occurs later, perform an external visual inspection of the skin for corrosion and delamination at all lap joints in accordance with that service bulletin. If corrosion is found, prior to further flight, perform a low frequency eddy current inspection of the entire length of the affected panel to determine material loss. If cracks are found, prior to further flight, perform a high frequency eddy current inspection of the entire length of the affected skin panel for cracks in accordance with the service bulletin. Repair cracks, corrosion, and delamination, prior to further flight (except as permitted by paragraph D., below), in accordance with the service bulletin. Inspections are to continue at intervals not to exceed 15 months.

D. If corrosion found as a result of the external inspection does not exceed 10% of the skin thickness, reinspect for corrosion in accordance with paragraph C., above, at intervals not to exceed 2,250 cycles or 6 months, whichever occurs first, until a repair is accomplished. If such corrosion exceeds 10% of skin thickness or if cracking is found, repair prior to further flight, in accordance with Boeing Alert Service Bulletin 737-53A1039, Revision 4, dated April 14, 1988. Following such repair, resume inspections in accordance with paragraph C., above.

E. Accomplishment of the requirements of this AD constitutes terminating action for the

requirements of AD 88-22-11, Amendment 39-6059, and is equivalent to the terminating modification therein. Any alternate means of compliance issued for that amendment are considered approved for this amendment.

F. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who may add any comments and then send it to the Manager, Seattle Aircraft Certification Office.

G. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective May 19, 1989.

Issued in Seattle, Washington, on April 10, 1989.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89-9335 Filed 4-18-89; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 88-ANE-21; Amdt. 39-6102]

Airworthiness Directives; Davis Aircraft Products Company, Inc., Safety-Belts, FDC 6400B Series (90° Release Type) Black "Ultem" (Plastic) Latch-Cover

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires inspection and, if necessary, replacement of certain Davis Aircraft Products Co., Inc., safety-belts. Also, certain typographical errors involving part numbers (P/N's), which appeared in the NPRM, have been corrected. The AD is needed to prevent safety-belts from becoming difficult to release, with possible jamming of the buckle release mechanism, resulting in a dangerous condition during an emergency evacuation of an aircraft.

DATES:

Effective—May 24, 1989

Compliance—As required in the body of the AD.

ADDRESSES: The applicable service information may be obtained from Davis Aircraft Products Co., Inc., 1150 Walnut Ave., P.O. Box 525 Bohemia, New York 11716.

A copy of the applicable service information is contained in the Rules Docket, Docket No. 88-ANE-21, at the Federal Aviation Administration, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, Massachusetts 01803, and may be examined between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. C. Kallis, Systems and Equipment Branch, ANE-173, New York Aircraft Certification Office, Engine and Propeller Directorate, Aircraft Certification Service, Federal Aviation Administration, 181 South Franklin Avenue, Room 202, Valley Stream, New York 11581; telephone (516) 791-6427.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an AD which requires that certain Davis Aircraft Products Company, Inc., safety-belts be inspected, and if necessary, replaced, was published in the **Federal Register** on June 14, 1988 (53 FR 22181).

The proposal was prompted by an FAA determination that certain FDC-6400B series (90° release type) black "Ultem" (plastic) latch-covers on the Davis Aircraft Products Company, Inc., safety-belt buckles have been cracking and creating difficulty in releasing the belt. This condition if not corrected could result in jamming of the buckle-release mechanism, when belt removal is required during an emergency evacuation of an aircraft.

Davis Aircraft Products Co., Inc., has issued recall (Service Bulletin No. 1, dated January 29, 1988) notices to all known operators who have purchased these safety-belts with the black "Ultem" latch-covers (90° release type), requesting them to check for certain part numbers designated on the labels and to return affected safety-belts to Davis Aircraft Products Co., Inc., for replacement at no charge for the rework and parts.

Interested persons have been afforded an opportunity to participate in the making of this amendment and due consideration has been given to all the comments received. Only one comment was received and the commenter responded with two objections. The first objection pertained to the statement in the supplementary information section of the NPRM that "wear" is the cause for the malfunctioning buckles. The commenter believes that, because of misuse in not fully engaging the release mechanism, excessive force is exerted on the plastic latch-cover. The second objection expressed by this commenter was that, in the summary section of the NPRM, it is not clear that the subject safety-belts are specifically the FDC-6400B series (90° lift to release) with black "Ultem" (plastic) latch-covers.

The FAA agrees with the commenter that, when the buckle latch-release is not fully engaged, excessive force will be imposed by the metallic adapter against the plastic covers. However, it is this excessive force that eventually creates wear and subsequent sticking or jamming of the mechanism upon releasing the belt.

Pertaining to the second objection from this commenter, the summary section of the NPRM serves the purpose of informing readers of the subject matter in brief and general terms; details are not addressed in this section, but rather left for the supplementary information section of the NPRM. In that respect, the NPRM mentions that the subject buckles are of a black "Ultem" (90° release type) plastic, and also in the effectivity of the AD the FDC-6400B series safety-belts are specifically called out.

The following typographical errors were noticed in the NPRM and are being corrected: P/N's FDC-6400B-29-1, FDC-6400B-29B-1, FDC-6400B-85-1, and FDC-6400B-90-1 should not reflect the -1 the end of the numbers, because the -1 suffix number at the end of the P/N is reserved to designate approved belts on the FAA/TSO metallic tag. Part Numbers FDC-6400B-63-50 and FDC-6400B-63-50, in consecutive order, should be FDC-6400B-63-507 and FDC-6400B-63-508. Part Number FDC-6400B-21-** should be FDC-6400B-31-**, and FDC-6400B-7*** should be FDC-6400B-7-***. Accordingly, except for the above corrections, the proposal is adopted without change.

The regulations adopted herein will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications

to warrant the preparation of a Federalism Assessment.

Conclusion: The FAA has determined that this regulation involves 5,000 of the FDC 6400B series (90° release type) safety-belts; the cost per aircraft will involve minimal expense that would be required for shipping the safety-belts to Davis Aircraft Products Co., Inc. Therefore, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 1034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; and (4) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration (FAA) amends Part 39 of the Federal Aviation Regulations (FAR) as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421, and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding to § 39.13 the following new airworthiness directive (AD):

Davis Aircraft Products Co., Inc.: Applies to safety-belts which incorporate the black "Ultem" plastic latch-cover with the 90° type pull-release mechanism, as listed below:

Affected Safety-Belt Part Numbers (P/N's)

FDC-6400B-6
FDC-6400B-7-***
FDC-6400B-12
FDC-6400B-12B
FDC-6400B-18-3
FDC-6400B-18-5
FDC-6400B-18-21
FDC-6400B-18-23
FDC-6400B-18-25
FDC-6400B-18-27
FDC-6400B-18-29
FDC-6400B-18-505
FDC-6400B-19
FDC-6400B-20
FDC-6400B-22
FDC-6400B-27-3
FDC-6400B-29
FDC-6400B-29-2
FDC-6400B-29B
FDC-6400B-29B-2
FDC-6400B-30B
FDC-6400B-31-**
FDC-6400B-32
FDC-6400B-36-***
FDC-6400B-39
FDC-6400B-50-***-**
FDC-6400B-51
FDC-6400B-54
FDC-6400B-56
FDC-6400B-63-2
FDC-6400B-63-4
FDC-6400B-63-507
FDC-6400B-63-508
FDC-6400B-64-***
FDC-6400B-71-***
FDC-6400B-80B
FDC-6400B-85
FDC-6400B-85-2
FDC-6400B-90
FDC-6400B-90-3
FDC-6400B-90-7
FDC-6400B-**-***-**-**

Compliance required within the next 100 flights, after the effective date of this AD, unless already accomplished.

To prevent the possibility of the applicable safety-belts from becoming difficult to release or becoming completely jammed when actuated through 90°, accomplish the following:

(a) Inspect safety-belts to determine if they have any of the above P/N's inscribed on the FAA-TSO-C22f metallic tag.

(b) Replace all safety-belts with the above P/N's with an approved safety-belt.

Notes: (1) Safety-belt assemblies that have been modified by Davis Aircraft Products Co., Inc., are marked with a -1 suffix number at the end of the Part Numbers (listed above) on the FAA-TSO-C22f metallic tag, and are approved.

(2) Davis Aircraft Products Co., Inc., has issued (recall) Service Bulletin No. 1, dated January 29, 1988, indicating that the affected safety-belts may be returned to them for replacement at no charge for the rework and parts.

(c) Upon request, an equivalent means of compliance with the requirements of this AD may be approved by the Manager, New York Aircraft Certification Office, Federal Aviation Administration, 181 South Franklin Avenue, Room 202, Valley Stream, New York 11581.

(d) Upon submission of substantiating data, by an owner or operator, through an FAA Airworthiness Inspector, the Manager, New York Aircraft Certification Office, may adjust the compliance time specified by this AD.

This amendment becomes effective on May 24, 1989.

Issued in Burlington, Massachusetts, on December 22, 1988.

Arthur J. Pidgeon,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 89-9285 Filed 4-18-89; 8:45 am]

BILLING CODE 4910-13-M

* Denotes numerical (arabic) digit.

14 CFR Part 39

[Docket No. 89-NM-36-AD; Amdt. 39-6198]

Airworthiness Directives; Gulfstream Aerospace Corp. Models G1159 (G-II), G1159A (G-III), G1159B (G-IIB), and G-IV Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action publishes in the **Federal Register** and makes effective as to all persons an amendment adopting a new airworthiness directive (AD) which was previously made effective as to all known U.S. owners and operators of Gulfstream Models G1159 (G-II), G1159A (G-III), G1159B (G-IIB), and G-IV series airplanes by individual letters. This Ad requires inspection of the electrical power leads to the engine fire extinguishers to determine proper installation and to correct the installation, if necessary. This action is prompted by reports of incorrect installation of the electrical power leads to the engine fire extinguishing systems. This condition, if not corrected, could result in a fire bottle being discharged into the wrong nacelle.

EFFECTIVE DATE: May 8, 1989.

This AD was effective earlier to all recipients of Priority Letter AD 89-05-05, dated March 8, 1989.

ADDRESSES: The applicable service information may be obtained from Gulfstream Aerospace Corporation, Technical Operations Department, Travis Field, P.O. Box 2206, Savannah, Georgia 31402-2206. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or at the Atlanta Aircraft Certification Office, FAA, Small Airplane Directorate, Aircraft Certification Service, 1669 Phoenix Parkway, Suite 210C, Atlanta, Georgia.

FOR FURTHER INFORMATION CONTACT: Mr. Ben Durrance, Propulsion Branch, Atlanta Aircraft Certification Office, FAA, Small Airplane Directorate, Aircraft Certification Service, 1669 Phoenix Parkway, Suite 210C, Atlanta, Georgia 30349, telephone (404) 991-3810.

SUPPLEMENTARY INFORMATION: On March 8, 1989, the FAA issued Priority Letter AD 89-05-05, applicable to Gulfstream Models G1159 (G-II), G1159A (G-III), G1159B (G-IIB), and G-IV series airplanes, which requires a one-time inspection of the electrical power leads to the engine fire extinguishers to determine proper

installation. That action was prompted by six reports of the electrical power leads to the engine fire extinguishing systems found incorrectly installed (crossed) on various Gulfstream airplanes in service. Such an incorrect installation could cause a fire bottle to be discharged into the wrong nacelle.

Since this condition is likely to exist or develop on other airplanes of this same type design, this AD requires a one-time inspection of the electrical power leads to the engine fire extinguishers to determine proper installation and to correct the installation, if necessary. This is considered interim action until final action has been identified, at which time the FAA may consider further rulemaking to address it.

Since a situation existed, and still exists, that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

The regulations adopted herein will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The Federal Aviation Administration has determined that this regulation is an emergency regulation and that it is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required).

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, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

Gulfstream Aerospace Corporation: Applicable to Model G1159 (G–II), G1159A (G–III), G1159B (G–IIB), and G–IV series airplanes, certificated in any category. Compliance is required as indicated, unless already accomplished.

To ensure that the engine fire extinguishing system electrical power leads are properly connected, accomplish the following:

A. Within the next 3 days or 10 hours time-in-service after the effective date of this AD, whichever occurs later, perform an inspection to determine proper configuration of electrical power leads to the engine fire extinguishing system, in accordance with the following Gulfstream Alert Customer Bulletins, as applicable: G–II (G1159/G1159B) Alert Customer Bulletin No. 20; G–III (G1159A) Alert Customer Bulletin No. 4; G–IV Alert Customer Bulletin No. 5; each dated February 2, 1989. If the configuration is not correct, prior to further flight, correct the installation in accordance with the appropriate Gulfstream Alert Customer Bulletin.

B. Immediately following any maintenance performed on the engine fire extinguishing system, perform the inspection procedures specified in the appropriate alert service bulletin specified in paragraph A., above, to ensure that proper functioning of the system is reestablished.

C. An alternate means of compliance of adjustment of the compliance time which provides an acceptable level of safety may be used when approved by the Manager, Atlanta Aircraft Certification Office, FAA, Central Region (Small Airplane Directorate, Aircraft Certification Service).

Note: If appropriate, the request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who will either concur or comment, and then send it to the Manager, Atlanta Aircraft Certification Office.

D. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer, may obtain copies upon request to Gulfstream Aerospace Corporation, Technical Operations Department, Travis Field, P.O. Box 2206, Savannah, Georgia 31402–2206. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at the Atlanta Aircraft Certification Office, FAA, Small Airplane Directorate, Aircraft Certification Service, 1669 Phoenix Parkway, Suite 210C, Atlanta, Georgia.

This amendment becomes effective May 8, 1989.

It was effective earlier to all recipients of Priority Letter AD 89–05–05, issued March 8, 1989.

Issued in Seattle, Washington, on April 11, 1989.

Leroy A. Keith,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89–9334 Filed 4–18–89; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 88–NM–168–AD; Amdt. 39–6193]

Airworthiness Directives; British Aerospace Model BAC 1–11 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certian British Aerospace Model BAC 1–11 series airplanes, which currently requires eddy current and ultrasonic inspections of the main landing gear support beams (manacle beam), and repair, if necessary. That action was prompted by a report of the collapse of a right main landing gear in service, attributed to stress corrosion cracking. This amendment requires additional maintenance actions and changes to some of the repetitive inspection intervals, and would provide an alternate means of compliance which terminates the need for the repetitive inspection. This amendment is prompted by further assessment of components associated with the main landing gear support beams, which identified the need for additional maintenance requirements. This condition, if not corrected, could lead to collapse of the main landing gear.

EFFECTIVE DATE: May 16, 1989.

ADDRESSES: The applicable service information may be obtained from British Aerospace PLC, Librarian for Service Bulletin, P.O. Box 17414, Dulles International Airport, Washington, DC 20041. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the

Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. William Schroeder, Standardization Branch, ANM-113; telephone (206) 431-1565. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations by superseding AD 87-13-03, Amendment 39-5654 (52 FR 23943; June 26, 1987), applicable to British Aerospace Model BAC 1-11 series airplanes, to require additional maintenance actions, to change certain the repetitive inspection intervals, and to provide an alternate means of compliance which terminates the need for the repetitive inspections, was published in the **Federal Register** on January 13, 1989 (54 FR 1390).

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the single comment received.

The commenter supported the proposal.

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

It is estimated that 2 airplanes of U.S. registry will be affected by this AD, that it will take approximately 60 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $4,800. (the cost for the optional new main support beam is estimated to be $90,000 per airplane.)

The regulations adopted herein will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic impact, positive or negative, on a substantial number of small entities, because few, if any, Model BAC 1-11 series airplanes are operated by small entities. A final evaluation has been prepared for this regulation and has been placed in the Docket.

List of Subjects 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By superseding AD 87-13-03, Amendment 39-5654 (52 FR 23943; June 26, 1987), with the following new airworthiness directive:

British Aerospace: Applies to all Model BAC 1-11 200 and 400 series airplanes, on which British Aerospace (BAe) main landing gear support structure Modification PM3070 is installed and Modification PM5928 has not been installed, certificated in any category. Compliance is required as indicated, unless previously accomplished.

To prevent collapse of a main landing gear, accomplish the following:

A. Perform initial and repetitive ultrasonic and eddy current inspections of the main landing gear support beams at initial times and repetitive intervals shown in Table I of this AD using procedures in BAe Alert Service Bulletin 57-A-PM6000, Issue 2, dated February 17, 1988.

TABLE I

Airplane Identification	Modification PM6000 Accomplishment Status	Initial Inspection Compliance Time	Repetitive Compliance Time Interval After Initial Inspection
Serial Numbers up to and including 402.	Not Accomplished	Whichever occurs later: —within 300 landings after July 30, 1987, (the effective date of AD 87-13-03, Amendment 39-5654); or —within 3 years since installation of new left and right main support beams.	Ultrasonic inspection: at intervals not to exceed 12 months. Eddy current inspections: at intervals not to exceed 36 months.
Serial Numbers 403 amd subsequent.	Not Accomplished	Whichever occurs later: —within 300 landings after July 30, 1987, (the effective date of AD 87-13-03, Amendment 39-5654); or —within 6 years since new; or —within 6 years since installation of new left and right main support beams.	Ultrasonic inspections: at intervals not to exceed 12 months. Eddy current inspections: at intervals not to exceed 36 months.
For all A/P's on which Mod. PM6000 is accomplished prior to assembly of main support beam into wing.	Accomplished	Whichever occurs later: —within 8 years since new; or —within 8 years since new right and left main support beams are installed.	Ultrasonic inspections: at intervals not to exceed 2 years.
For all A/P's on which Mod. PM6000 is accomplished after assembly of main support beam into wing.	Accomplished	Within 2 years after installation of Modification PM6000.	Ultrasonic inspections: at intervals not to exceed 2 years.

B. Cracks in the main landing gear main support beam must be repaired, prior to further flight, in a manner approved by the Manager, Standardization Branch, ANM-113, FAA, Northwest Mountain Region.

C. Installation of main support beam, part number ED03-5007/8 (Modification PM5928) constitutes terminating action for the requirements of this AD.

D. An alternate means of compliance or adjustment of the compliance time, which

provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Northwest Mountain Region.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who may add any comments and then send it to the Manager, Standardization Branch, ANM-113.

E. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of the modifications required by this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to British Aerospace PLC, Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This Amendment supersedes AD 87-13-03, Amendment 39-5654.

This Amendment becomes effective May 16, 1989.

Issued in Seattle, Washington, on April 6, 1989.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89-9287 Filed 4-18-89; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 88-NM-199-AD; Amdt. 39-6194]

Airworthiness Directives; SAAB-Scania Model SF-340A Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to SAAB-Scania Model SF-340A series airplanes, which requires inspection of the insulation in the Environmental Control System (ECS) compartment and securing of the Gamah Couplings with a locking wire. If inspection reveals leakage of hot air into the fuselage, an additional inspection is required for delamination of the stringer-to-skin bonding, and repair, if necessary. This amendment is prompted by a report of hot air leakage into the ECS compartment due to the separation of a Gamah Coupling, which resulted in delamination of the stringer-to-skin bonding due to overheated adhesive. This condition, if not corrected, could lead to reduced structural capability of the fuselage.

EFFECTIVE DATE: May 16, 1989.

ADDRESSES: The applicable service information may be obtained from SAAB-Scania AD, S-581.88, Linkoping, Sweden. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Mark Quam, Standardization Branch, ANM-113; telephone (206) 431-1978. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations, to include a new airworthiness directive, applicable to SAAB-Scania Model SF-340A series airplanes, which requires inspection of the insulation in the Environmental Control System (ECS) compartment and securing of the Gamah Couplings with a locking wire; and certain additional inspections for delamination of the stringer-to-skin bonding, and repair, if necessary; was published in the **Federal Register** on January 18, 1989 (54 FR 1944).

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received in response to the proposal.

After careful review of the available data, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

It is estimated that 67 airplanes of U.S. registry will be affected by this AD, that it will take approximately 6 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $16,080.

The regulations adopted herein will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic impact, positive or negative, on a substantial number of small entities because of the minimal cost of compliance per airplane ($240). A final evaluation has been prepared for this regulation and has been placed in the docket.

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, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations as follows:

PART 39-[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.131 [Amended]

2. By adding the following new airworthiness directive:

Saab-Scania: Applies to Model SF-340A series airplanes, serial numbers -003 through -138, inclusive, certificated in any category. Compliance is required as indicated below, unless previously accomplished.

To prevent reduced structural capability of the fuselage, accomplish the following:

A. Within 30 days after the effective date of this AD, perform an inspection of the insulation in the Environmental Control System (ECS) compartment and secure the Gamah Couplings with a locking wire, in accordance with SAAB-Scania Service Bulletin SF340-21-022, dated October 31, 1988.

B. If the inspection required by paragraph A., above, reveals leakage of hot air, prior to further flight, inspect for delamination of the stringer to skin bonding, and repair, if necessary, in accordance with SAAB-Scania Service Bulletin SF340-53-025, dated October 31, 1988.

C. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Northwest Mountain Region.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who may add any comments and then send it to the Manager, Standardization Branch, ANM-113.

D. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to SAAB-Scania AB, S–581 88, Linkoping, Sweden. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective May 16, 1989.

Issued in Seattle, Washington, on April 6, 1989.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89–9286 Filed 4–18–89; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 89–AWA–8]

Alteration of the Detroit Terminal Control Area; Michigan

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule alters the description of the Detroit Terminal Control Area (TCA). A portion of the Detroit TCA is described by using the Willow Run very high frequency omni-directional radio range (VOR). The Willow Run VOR has been decommissioned and that portion of the TCA, which was defined by the Willow Run VOR, is now defined by using latitude and longitude coordinates.

EFFECTIVE DATE: 0901 u.t.c., June 1, 1989.

FOR FURTHER INFORMATION CONTACT: Jesse B. Bogan, Jr, Airspace Branch (ATO–240), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267–9253.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) describes the boundaries of Area A and Area B of the Detroit TCA by using latitude and longitude coordinates when practical. The boundaries of the areas are described by using the Willow Run VOR which has been decommissioned. Therefore, the boundaries of Area A and Area B are to be described by using latitude and longitude coordinates. In Areas C and D, changes have been made to show the correct radial off the Windsor VOR. Since this amendment will change the descriptions of the areas and not the design, I find that notice and public procedure under 5 U.S.C. 553(b) are unnecessary because this action is a minor technical amendment in which the public would not be particularly interested. Section 71.403 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6E dated January 3, 1989.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Terminal control areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE AND REPORTING POINTS

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

§ 71.403 [Amended]

2. Section 71.403 is amended as follows:

Detroit, MI [Amended]

By removing the present description of Area A and substituting the following:

Area A. That airspace extending upward from the surface to and including 8,000 feet MSL within the lateral limits of the airspace beginning at lat. 42°17'10"N., long. 83°27'14"W.; thence northeast on a 047° bearing until intercepting the 7-mile DME arc of the Detroit Instrument Landing System (I–DTW) at lat. 42°20'59"N., long. 83°21'42"W.; thence clockwise along the I–DTW 7-mile DME arc until intercepting the Detroit Willow Run Airport Control Zone at lat. 42°10'15"N., long. 83°28'53"W.; thence counterclockwise along the Detroit Willow Run Airport Control Zone to the point of origin.

By removing the present description of Area B and substituting the following:

Area B. That airspace from 2,500 feet MSL to and including 8,000 feet MSL within the lateral limits fo the airspace beginning at the intersection of the I–DTW 7-mile DME arc at lat. 42°20'59"N., long. 83°21'42"W.; thence northeast on a 047° bearing until intercepting the I–DTW 8-mile DME arc at lat. 42°21'59"N., long. 83°19'57"W.; thence clockwise along the I–DTW 8-mile DME arc until lat. 42°13'54"N., long. 83°10'08"W.; thence eastbound on a 090° bearing until the United States shoreline, southbound along the United States shoreline to lat. 42°10'55"N., long. 83°09'25"W.; thence on a 214° bearing until intercepting the I–DTW 11-mile DME arc; thence clockwise along the I–DTW 11-mile DME arc until lat. 42°07'11"N., long. 83°32'30"W.; thence northeast on a 047° bearing to the point where the I–DTW 7-mile DME arc intercepts the Detroit Willow Run Airport Control Zone at lat. 42°10'15"N., long. 83°28'53"W.; thence counterclockwise along the I–DTW 7-mile DME arc to the point of origin.

In Area C, wherever "VOR 220°" appears change to "VOR 221°".

In Area D, by removing the words "Windsor VOR 220°" and substituting the words "Windsor VOR 221°".

Issued in Washington, DC, on April 7, 1989.

Harold W. Becker,

Manager, Airspace—Rules and Aeronautical Information Division.

[FR Doc. 89–9337 Filed 4–18–89; 8:45 am]

BILLING CODE 4910–13–M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 4

Statement of the Commodity Futures Trading Commission Regarding Disclosure by Commodity Pool Operators of Past Performance Records and Pool Expenses

AGENCY: Commodity Futures Trading Commission.

ACTION: Extension of comment period.

SUMMARY: On February 6, 1989, the Commodity Futures Trading Commission ("Commission") published in the **Federal Register** an interpretive statement regarding the disclosure requirements pertaining to commodity

pool operators ("CPOs"). (54 FR 5597 (February 6, 1989).) The Commission requested comment on matters related to the presentation of prior performance data by CPOs and commodity trading advisors ("CTAs") and the presentation of the fees, commissions and expenses incurred by pools, and on any other issues relating to Part 4 disclosure requirements. The interpretive statement provided a period for public comment which ended April 7, 1989.

The Commission has been requested by several potential commentators to extend the comment period for the interpretive statement. Such additional time has been requested in order to allow the associations representing CPOs and CTAs to receive and analyze the comments of their memberships and present them to the Commission. The Commission believes that a thirty-day extension period is appropriate to enhance the opportunity for interested parties to comment on the issues raised in the release.

DATE: All comments on the Commission's interpretive statement concerning Part 4 disclosure requirements (54 FR 5597 (February 6, 1989)) must be received by May 5, 1989.

ADDRESS: Comments should be sent to the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581.

FOR FURTHER INFORMATION CONTACT: Tobey W. Kaczensky, Associate Director, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. Telephone (202) 254–8955.

Issued in Washington, this 13th day of April, 1989.

Lynn K. Gilbert,

Deputy Secretary to the Commission.

[FR Doc. 89–9279 Filed 4–18–89; 8:45 am]

BILLING CODE 6351–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 175

[Docket No. 88F–0177]

Indirect Food Additives; Adhesives and Components of Coatings

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of polypropylene glycol dibenzoate and propylene glycol dibenzoate as components of adhesives in contact with food. This action is in response to two petitions filed by the Velsicol Chemical Corp.

DATES: Effective April 19, 1989; written objections and requests for a hearing by May 19, 1989.

ADDRESS: Written objections may be sent to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Richard H. White, Center for Food Safety and Applied Nutrition (HFF–335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: In a notice published in the Federal Register of June 22, 1988 (53 FR 23455), FDA announced that two food additive petitions (FAP 8B4070 and FAP 8B4071) had been filed by Velsicol Chemical Corp., 5600 North River Rd., Rosemont, IL 60018–5119, proposing that § 175.105 *Adhesives* (21 CFR 175.105) of the food additive regulations be amended to provide for the safe use of polypropylene glycol dibenzoate and propylene glycol dibenzoate, respectively, as components of adhesives in contact with food.

FDA has evaluated data in the petitions and other relevant material. The agency concludes that the proposed food additive uses for polypropylene glycol dibenzoate and propylene glycol dibenzoate are safe, and that § 175.105(c)(5) should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petitions and the documents that FDA considered and relied upon in reaching its decision to approve these petitions are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that environmental impact statements are not required. The agency's findings of no significant impact and the evidence supporting those findings, contained in the environmental assessments, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this regulation may at any time on or before May 19, 1989 file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 175

Adhesives, Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, Part 175 is amended as follows:

PART 175—INDIRECT FOOD ADDITIVES: ADHESIVES AND COMPONENTS OF COATINGS

1. The authority citation for 21 CFR Part 175 continues to read as follows:

Authority: Sections 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348); 21 CFR 5.10 and 5.61.

2. Section 175.105 is amended in paragraph (c)(5) by alphabetically adding two new entries in the table to read as follows:

§ 175.105 Adhesives.

* * * * *

(c) * * *

(5) * * *

Substances	Limitations
* * *	* * *
Polypropylene glycol dibenzoate (CAS Reg. No. 72245-46-6).	For use as a plasticizer at levels not to exceed 20 percent by weight of the finished adhesive.
* * *	* * *
Propylene glycol dibenzoate (CAS Reg. No. 19224-26-1).	For use as a plasticizer at levels not to exceed 20 percent by weight of the finished adhesive.
* * *	* * *

Dated: April 10, 1989.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 89-9270 Filed 4-18-89; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 177

[Docket No. 87F-0155]

Indirect Food Additives; Polymers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of ethylene terephthalate-isophthalate copolymers containing a minimum of 98 weight percent of polymer units derived from ethylene terephthalate for use as a component of articles in contact with alcoholic beverages. This action responds to a petition filed by the Goodyear Tire & Rubber Co.

DATES: April 19, 1989; objections by May 19, 1989.

ADDRESS: Written objections may be sent to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Hortense S. Macon, Center for Food Safety and Applied Nutrition (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of June 4, 1987 (52 FR 21122), FDA announced that a petition (FAP 7B3990) had been filed by the Goodyear Tire & Rubber Co., 130 Johns Ave., Akron, OH 44305-4097, proposing that § 177.1630 *Polyethylene phthalate polymers* (21 CFR 177.1630) be amended to provide for the safe use of ethylene terephthalate-isophthalate copolymers containing a minimum of 98 weight percent of polymer units derived from ethylene terephthalate for use as a component of articles in contact with alcoholic beverages.

The agency received one comment concerning the petition. The comment was in support of the petition.

FDA has evaluated data in the petition and other relevant material, and concludes that the proposed food additive use is safe, and that § 177.1630 should be amended by adding new paragraph (j).

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this regulation may at any time on or before May 19, 1989, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right of a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 177

Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director of the Center for Food Safety and Applied Nutrition, Part 177 is amended as follows:

PART 177—INDIRECT FOOD ADDITIVES: POLYMERS

1. The authority citation for 21 CFR Part 177 continues to read as follows:

Authority: Sections 201(s), 409, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348); 21 CFR 5.10 and 5.61.

2. Section 177.1630 is amended by adding new paragraph (j) to read as follows:

§ 177.1630 Polyethylene phthalate polymers.

* * * * *

(j) Polyethylene phthalate plastics, composed of ethylene terephthalate-isophthalate containing a minimum of 98 weight percent of polymer units derived from ethylene terephthalate, conforming with the specifications prescribed in paragraph (j)(1) of this section are used as provided in paragraph (j)(2) of this section.

(1) *Specifications.* (i) The food contact surface meets the specifications in paragraph (f)(1) of this section and

(ii)(*a*) *Containers with greater than 500 mL capacity.* The food-contact surface when exposed to 95 percent ethanol at 120° F for 24 hours should not yield chloroform-soluble extractives in excess of 0.005 mg/in^2.

(*b*) *Containers with less than or equal to 500 mL capacity.* The food contact surface when exposed to 95 percent ethanol at 120°F for 24 hours should not yield chloroform-soluble extractives in excess of 0.05 mg/in^2.

(2) *Conditions of use.* The plastics are used for packaging, transporting, or holding alcoholic foods that do not exceed 95 percent alcohol by volume.

Dated: April 10, 1989.

Richard J. Rork,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 89-9271 Filed 4-18-89; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 520

Oral Dosage Form New Animal Drugs Not Subject to Certification; Sulfamethazine Boluses

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Norden Laboratories, Inc. The application provides for the use of a bolus containing 5 grams of sulfamethazine for the treatment of certain diseases in ruminating beef and dairy calves.

EFFECTIVE DATE: April 19, 1989.

FOR FURTHER INFORMATION CONTACT: Charles E. Haines, Center for Veterinary Medicine (HFV-133), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3410.

SUPPLEMENTARY INFORMATION: Norden Laboratories, Inc., Lincoln, NE 68501, has filed NADA 140-909 (formerly NADA 99-987) which provides for the use of a 5-gram sulfamethazine bolus. The drug is indicated for use in ruminating beef and dairy calves for treating bacterial scours (colibacillosis) caused by *Escherichia coli*, necrotic pododermatitis (foot rot) and calf diphtheria caused by *Fusobacterium necrophorum*, bacterial pneumonia associated with *Pasteurella* spp., and coccidiosis caused by *Eimeria bovis* and *Eimeria zurnii*. The NADA is approved and 21 CFR 520.2260a is amended to reflect the approval. The NADA was originally filed as NADA 99-987 and contained sulfamethazine and neomycin. Norden Laboratories, Inc., reformulated the product by removing the neomycin and FDA has renumbered the application as NADA 140-909. (The status of the product containing sulfamethazine and neomycin under the Center for Veterinary Medicine's notice of opportunity for a hearing on its proposal to refuse approval of certain sulfonamide-containing drugs (53 FR 46050; November 15, 1988, corrected December 12 and 23, 1988; 53 FR 49968 and 51950; and February 2, 1989; 54 FR 5303) will be addressed in a notice to be published in a future issue of the **Federal Register**.) The basis for approval of NADA 140-909 is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.24(d)(1)(i) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 520

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, Part 520 is amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

1. The authority citation for 21 CFR Part 520 continues to read as follows:

Authority: Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)); 21 CFR 5.10 and 5.83.

2. Section 520.2260a is revised to read as follows:

§ 520.2260a Sulfamethazine oblets and boluses.

(a)(1) *Sponsor.* See No. 010042 in § 510.600(c) of this chapter for use of 2.5-, 5-, or 15-gram sulfamethazine oblet.

(2) *Related tolerance in edible products.* See § 556.670 of this chapter.

(3) *Conditions of use*—(i) *Amount.* Administer as a single dose 100 milligrams of sulfamethazine per pound of body weight the first day and 50 milligrams per pound of body weight on each following day.

(ii) *Indications for use.* For treatment of diseases caused by organisms susceptible to sulfamethazine.

(A) *Beef cattle and nonlactating dairy cattle.* Treatment of bacterial pneumonia and bovine respiratory disease complex (shipping fever complex) (*Pasteurella* spp.), colibacillosis (bacterial scours) (*Escherichia coli*), necrotic pododermatitis (foot rot) (*Fusobacterium necrophorum*), calf diphtheria (*Fusobacterium necrophorum*), acute mastitis (*Streptococcus* spp.), acute metritis (*Streptococcus* supp.), coccidiosis (*Eimeria bovis* and *Eimeria zurnii*).

(B) *Horses.* Treatment of bacterial pneumonia (secondary infections associated with *Pasteurella* spp.), strangles (*Streptococcus equi*), and bacterial enteritis (*Escherichia coli*).

(iii) *Limitations.* Administer daily until animal's temperature and appearance are normal. If symptoms persist after using for 2 or 3 days consult a veterinarian. Fluid intake must be adequate. Treatment should continue 24 to 48 hours beyond the remission of disease symptoms, but not to exceed 5 consecutive days. Follow dosages carefully. Not for use in lactating dairy animals. Do not treat cattle within 10 days of slaughter. Not to be used in horses intended for food.

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

(b)(1) *Sponsor.* See No. 011519 in § 510.600(c) of this chapter for use of 5-gram sulfamethazine bolus.

(2) *Related tolerances in edible products.* See § 556.670 of this chapter.

(3) *Conditions of use*—(i) *Amount.* Administer 10 grams (2 boluses) of sulfamethazine per 100 pounds of body weight the first day, then 5 grams (1 bolus) of sulfamethazine per 100 pounds of body weight daily for up to 4 additional consecutive days.

(ii) *Indications for use.* Ruminating beef and dairy calves. For treatment of the following diseases caused by organisms susceptible to sulfamethazine: bacterial scours (colibacilloosis) caused by *E. coli*; necrotic pododermatitis (foot rot) and calf diphtheria caused by *F. necrophorum*; bacterial pneumonia associated with *Pasteurella* spp.; and coccidiosis caused by *E. bovis* and *E. zurnii*.

(iii) *Limitations.* Do not administer for more than 5 consecutive days. Do not treat calves within 11 days of slaughter. Do not use in calves to be slaughtered under 1 month of age or in calves being fed an all milk diet. Do not use in female dairy cattle 20 months of age or older; such use may cause drug residues in milk. Administer with adequate supervision. Follows recomended dosages carefully. Fluid intake must be adequate. If symptoms persist after 2 or 3 days, consult a veterinarian.

Dated: April 12, 1989.

Gerald B. Guest,

Director, Center for Veterinary Medicine.

[FR Doc. 89-9347 Filed 4-18-89; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF JUSTICE

Office of the Attorney General

28 CFR Part 0

[Order No. 1339-89]

Organization and Functions of Special Independent Counsel for Members of Congress; Suspension

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: This order amends the organizational statement on the Special Independent Counsel for Members of Congress in 28 CFR Part 0 by suspending 28 CFR 0.14. This order will revise the Code of Federal Regulations so that it accurately reflects the current rules.

EFFECTIVE DATE: April 12, 1989.

FOR FURTHER INFORMATION CONTACT: John C. Keeney, Deputy Assistant Attorney General, Criminal Division; telephone number: 202-633-2621. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: This regulation will amend title 28 of the Code of Federal Regulations in order to suspend § 0.14. This is not a major rule within the meaning of Exec. Order No. 12291. This will not have an impact on a significant number of small businesses. 5 U.S.C. 901.

List of Subjects in 28 CFR Part 0

Authority delegations (Government agencies).

By the authority vested in me, including 28 U.S.C. 509, 510, and 5 U.S.C. 301:

1. The Assistant Attorney General for the Criminal Division shall, pursuant to 28 CFR 0.55, exercise the authority necessary to complete any pending investigations.

2. Subpart B of Part 0 of title 28 of the Code of Federal Regulations is amended as follows:

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

1. The authority citation for Part 0 continues to read as follows:

Authority: 5 U.S.C. 301, 2303, 3103; 8 U.S.C. 1103, 1324A, 1427(g); 15 U.S.C. 644(k); 18 U.S.C. 2254, 3621, 3622, 4001, 4041, 4042, 4044, 4082, 4201 *et seq.*, 6003(b); 21 U.S.C. 871, 881(d), 904; 22 U.S.C. 263a, 1621-1645o, 1622 note; 28 U.S.C. 509, 510, 515, 516, 519, 524, 543, 552, 552a, 569; 31 U.S.C. 1108, 3801 *et seq.*; 50 U.S.C. App. 2001-2017p; Pub. L. 91-513, sec. 501; EO 11919; EO 11267; EO 11300.

§ 0.14 [Suspended]

2. Section 0.14 is suspended.

Date: April 12, 1989.

Dick Thornburgh,

Attorney General.

[FR Doc. 89-9240 Filed 4-18-89; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 191

The DOD Civilian Equal Employment Opportunity (EEO) Program

AGENCY: Office of the Secretary, DOD.

ACTION: Final rule.

SUMMARY: This document amends 32 CFR Part 191 to update the membership of the Defense Equal Opportunity Council (DEOC), update the definition of "affirmative action" as endorsed by the DEOC, and update the definition of "sexual harassment" as directed by the Secretary of Defense's memorandum dated July 20, 1988.

EFFECTIVE DATE: April 11, 1989.

FOR FURTHER INFORMATION CONTACT: Mr. C. Haughton, Jr., Director for Civilian Equal Opportunity Policy, Department of Defense, Room 3A272, the Pentagon, Washington, DC 20301-4000, telephone (202) 695-0105 or autovon 225-0105.

SUPPLEMENTARY INFORMATION:

List of Subjects in 32 CFR Part 191

Equal employment opportunity, Government employees, Military personnel. Accordingly, 32 CFR Part 191 is amended as follows:

PART 191—THE DOD CIVILIAN EQUAL EMPLOYMENT OPPORTUNITY (EEO) PROGRAM

1. The authority citation continues to read as follows:

Authority: 5 U.S.C. 301, 10 U.S.C. 113.

2. Section 191.3 is amended by removing the last sentence in the definition *Affirmative action* and in *Equal Employment Opportunity (EEO)* and by revising the definition of *Sexual Harassment* as follows:

§ 191.3 Definitions.

* * * * *

Sexual Harassment. A form of sex discrimination that involves unwelcomed sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

(a) Submission to or rejection of such conduct is made either explicitly or implicitly a term or condition of a person's job, pay, or career; or

(b) Submission to or rejection of such conduct by a person is used as a basis for career or employment decisions affecting that person, or

(c) Such conduct interferes with an individual's performance or creates an intimidating, hostile, or offensive environment.

Any person in a supervisory or command position who uses or condones implicit or explicit sexual behavior to control, influence, or affect the career, pay, or job of a military member of civilian employee is engaging in sexual harassment. Similarly, any military member of civilian employee who makes deliberate or repeated unwelcomed verbal comments, gestures, or physical contact of a sexual nature is also engaging in sexual harassment.

* * * * *

§ 191.4 [Amended]

2. Section 191.4(a) is amended by adding at the end of the paragraph "Equal employment opportunity is the objective of affirmative action programs."

3. Section 191.4(b) is amended by adding at the end of the paragraph "Such programs, which shall be designed to identify, recruit, and select qualified personnel, shall be coordinated with the cognizant legal offices."

§ 191.6 [Amended]

4. Section 191.6(b)(8), change "1404.11" to "1404.12"

§ 191.8 [Amended]

5. Section 191.8(a), after the words "(Reserve Affairs)" add ", Director of Administration and Management,"

§ 191.9 [Amended]

6. Section 191.9 is amended by changing "semiannual" to "annual", changing "0288-EEO-SA" to "0288-EEO-NA" in paragraph (a)(3), removing paragraph (a)(2), redesignating paragraph (a)(3) to (a)(2), changing "semiannual" to "annual", changing "0288-EEO-SA" to "0288-EEO-NA" in paragraph (b)(2), removing paragraph (b)(1), and redesignating paragraphs (2) through (4) to (1) through (3).

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

April 12, 1989.

[FR Doc. 89-9241 Filed 4-18-89; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD7-89-06]

Temporary Drawbridge Operation Regulations; Atlantic Intracoastal Waterway, FL

AGENCY: Coast Guard, DOT.

ACTION: Temporary rule.

SUMMARY: The Coast Guard is temporarily changing the regulation governing the NASA Railroad drawbridge at the Kennedy Space Center by requiring the bridge to open only at scheduled intervals while it is being painted. This schedule will allow the painting to proceed in a timely fashion with minimal delay to vessel traffic.

DATES: These temporary regulations become effective April 17, 1989 and terminate on August 17, 1989.

FOR FURTHER INFORMATION CONTACT: Mr. Walt Paskowsky, (305) 536-4103.

SUPPLEMENTARY INFORMATION: A Notice of Proposed Rulemaking was not published for this regulation and it is being made effective in less than 30 days after **Federal Register** publication. NASA originally requested continuous daytime closure of the drawbridge for painting with a five minute opening each hour. This would have expedited return of the draw to normal operation, however, due to the expected heavy seasonal migration of vessels returning north on the Intracoastal Waterway, NASA agreed to minimize the closed periods by using a unique painting procedure. As a result, the bridge will be maintained in the open position most of the time, and during necessary periods of closure for painting, will be opened on the hour and half-hour.

Drafting Information

The drafters of this notice are Mr. Walt Paskowsky, Bridge Administration Specialist, project officer, and Lieutenant Commander S.T. Fuger, Jr., project attorney.

Discussion of Temporary Regulations

The NASA Railroad drawbridge presently operates automatically closing only for the passage of a train and remaining in the open position at all other times.

Due to the extremely limited clearance of the bridge in the closed position, NASA will be using a skycable attachment which will allow most of the painting to be done with the bridge in the open position. This temporary regulation change which adds scheduled openings between 7:30 a.m. and 3:30 p.m., Monday through Saturday, is intended to provide draw openings at 30 minute intervals during the occasional periods when the draw is being painted in the closed position.

List of Subjects in 33 CFR Part 117

Bridges.

Temporary Regulations

In consideration of the foregoing, Part 117 of Title 33, Code of Federal Regulations, is temporarily amended as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05-1(g); 33 CFR 117.43.

2. Paragraph (j) of § 117.261 is revised to read as follows for the period April 17, 1989 through August 17, 1989. Because this is a temporary rule, this revision will not appear in the Code of Federal Regulations.

§ 117.261 Atlantic Intracoastal Waterway, St. Marys River to Key Largo.

* * * * *

(j) NASA railroad bridge, mile 876.6 near Jay Jay. The draw shall be operated as follows:

(1) The bridge is not constantly tended.

(2) The draw is normally in the fully open position displaying flashing green lights to indicate that vessels may pass.

(3) When a train approaches the bridge the lights go to flashing red and a horn sounds four blasts, pauses and repeats four blasts. After an eight minute delay, the draw lowers and locks, providing the scanning equipment reveals nothing under the draw. The draw remains down for a period of eight minutes or while the approach track circuit is occupied.

(4) After the train has cleared, the draw opens and the lights return to flashing green.

(5) When the drawspan is in the closed position between 7:30 a.m. and 3:30 p.m. Monday through Saturday, while being painted, and no train is in the approach track circuit, it will be opened on the hour and half-hour to pass all accumulated vessels.

* * * * *

Dated: April 6, 1989.

J.L. Linnon,

Captain, USCG, Acting Commander, Seventh Coast Guard District.

[FR Doc. 89-9329 Filed 4-18-89; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 165

[CGD11 89-11]

Safety Zone; San Pedro Bay, California

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing a Safety Zone in the Port of Long Beach, CA. Dredging and landfill activities associated with the expansion of Pier J have created numerous hazards to waterway users in the area. This Safety Zone is necessary to protect vessels and the public from those hazards.

DATES: This regulation becomes effective on April 9, 1989. Comments on this regulation must be received on or before June 2, 1989.

ADDRESS: Comments should be mailed to Commander (mepps), Eleventh Coast Guard District, 400 Oceangate, Long Beach, CA 90822-5399. The comments will be available for inspection and copying at the Eleventh Coast Guard District Office, Room 709, 400 Oceangate, Long Beach, CA 90822-5399. Normal office hours are between 8:00 a.m. and 4:00 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Commander N.S. Porter, Chief, Marine Environment Protection/Port Safety Branch, Eleventh Coast Guard District, 400 Oceangate, Long Beach, CA 90822-5399. Phone number (213) 499-5333.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a Notice of Proposed Rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days from the date of publication. Following normal rulemaking procedures would have been contrary to the public interest since immediate action is needed to respond to actual hazards to vessels and persons in the area.

Although this regulation is published as a final rule without prior notice, an opportunity for public comment is nevertheless desirable to ensure that the regulation is both reasonable and workable. Accordingly, persons wishing to comment may do so by submitting written comments to the office listed under **"ADDRESS"** in this preamble.

Commenters should include their names and addresses, identify the docket number for the regulations, and give reasons for their comments. Based upon comments received, the regulations may be changed.

Drafting Information

The drafters of this regulation are Lieutenant Junior Grade John A. Meehan, project officer, Marine Safety Office Los Angeles/Long Beach, and Lieutenant Commander G.R. Wheatley, project attorney, Eleventh Coast Guard District Legal Office.

Discussion of Regulation

In September, 1988, construction began on the Pier J Expansion Project in the Port of Long Beach, CA. The project involves extensive dredging and landfill activities which will ultimately lead to the creation of 147 acres of new land and a new slip for deep draft vessels. When completed, the pier will extend one half mile further south toward the Long Beach Breakwater.

In January, 1989, the contractor for the landfill installed eight towers in the project area. The towers are located along the eastern, southern, and western perimeters of the area and each is marked with a white quick-flashing light. The towers are used as survey markers by the contractor and help to identify the project boundaries.

By late February, 1989, landfill activities had reduced the depth in the project area to approximately 25 feet below mean lower low water and created a significant hazard to the navigation of deep draft vessels. Dredging activities had also introduced numerous floating and submerged hazards which threatened the safe navigation of all vessels in the area.

In view of the hazards presented by this project, the Coast Guard is establishing a Safety Zone to ensure the safety of all persons and watercraft transiting in or near the project site. This Final Rule prohibits all vessels from entering the waters included within the zone unless specifically authorized by the Captain of the Port.

The Coast Guard expects the project to continue for another eighteen months. Regardless of the completion date, the Safety Zone will continue in place until the new landfill is marked by appropriate aids to navigation.

This regulation is issued pursuant to 33 U.S.C. 1225 and 1231 as set out in the authority citation for all of Part 165.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Security measures, Vessels, Waterways.

Final Regulation

In consideration of the foregoing, Part 165 of Title 33, Code of Federal Regulations, is amended as follows:

PART 165—[AMENDED]

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 49 CFR 1.46 and 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5.

2. Section 165.1113 is added to read as follows:

§ 165.1113 San Pedro Bay, California—safety zone.

(a) The following area is a Safety Zone: The waters of San Pedro Bay enclosed by a line beginning on the shore of Long Beach Pier J at latitude 33°44'19"N., longitude 118°12'15" W.; thence proceeding southerly to latitude 33°44'10" N., longitude 118°12'14" W.; thence southeasterly to latitude 33°43'52" N., longitude 118°11'42" W.; thence easterly to latitude 33°43'52" N., longitude 118°10'57" W.; thence northerly to latitude 33°44'19" N., longitude 118°10'57" W.; thence westerly to the shore of Pier J at latitude 33°44'19" N., longitude 118°11'07" W.; and thence along the southern shore of Pier J to the beginning point.

(b) Regulations: In accordance with the general regulations in § 165.23 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port.

Dated: April 9, 1989.

Terry Lucas,

Captain, U.S. Coast Guard, Acting Commander, Eleventh Coast Guard District.

[FR Doc. 89–9330 Filed 4–18–89; 8:45 am]

BILLING CODE 4910–14–M

POSTAL SERVICE

39 CFR Part 966

Rules of Practice in Proceedings Relative to Administrative Offsets Initiated by the Postal Inspection Service

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: The Judicial Officer of the Postal Service hereby issues the rules of procedure governing the conduct of hearings relative to administrative offsets initiated by the Postal Inspection Service.

EFFECTIVE DATE: April 19, 1989.

FOR FURTHER INFORMATION CONTACT: Associate Judicial Officer James D. Finn, Jr., (202) 268–2133.

SUPPLEMENTARY INFORMATION: Acting in accordance with authority delegated to him by 39 CFR 226.2(d)(1)(iv), the Judicial Officer adopts 39 CFR Part 966, the rules of practice governing proceedings relative to administrative offsets initiated by the Postal Inspection Service. The rules in this part apply to any hearing on the Inspection Service's determination of the existence or amount of a debt owed the Postal Service by a former postal employee, or on the terms of the Inspection Service's proposed debt repayment schedule.

List of Subjects in 39 CFR Part 966

Administrative practice and procedure, Postal Service.

Accordingly, 39 CFR is amended by adding the following new Part 966:

PART 966—RULES OF PRACTICE IN PROCEEDINGS RELATIVE TO ADMINISTRATIVE OFFSETS INITIATED BY THE POSTAL INSPECTION SERVICE

Sec.

Authority: 39 U.S.C. 204, 401, 2601.

§ 966.1 Authority for rules.

These rules of practice are issued by the Judicial Officer pursuant to authority delegated by the Postmaster General.

§ 966.2 Scope of rules.

The rules in this part apply to any petition filed by a former postal employee:

(a) To challenge the Postal Service's determination that he or she is liable for a debt based on a loss from the mails or from Postal Service revenues; and/or

(b) To challenge the administrative offset schedule proposed by the Postal Service for collecting any such debt.

§ 966.3 Definitions.

(a) "Administrative Offset" refers to the withholding of money payable by the Postal Service or the United States to, or held by the Postal Service or the United States for, a former employee in

order to satisfy a debt determined to be owed by the former employee to the Postal Service.

(b) "Chief Postal Inspector" refers to the Chief Postal Inspector of the Inspection Service Department or his or her representative.

(c) "Debt" refers to any amount determined by the Postal Service to be owed to the Postal Service by a former employee as a result of a loss from the mails or from Postal Service revenues.

(d) "Former Employee" refers to an individual whose employment with the Postal Service has ceased. An employee is considered formally separated from the Postal Service rolls as of close of business on the effective date of his or her separation Postal Service Form 50.

(e) "Hearing Official" refers to an Administrative Law Judge qualified to hear cases under the Administrative Procedure Act, an Administrative Judge appointed under the Contract Disputes Act of 1978, or any other qualified person licensed to practice law designated by the Judicial Officer to preside over a hearing conducted pursuant to these regulations.

(f) "Inspection Service" refers to the Inspection Service Department of the Postal Service.

(g) "Judicial Officer" refers to the Judicial Officer, Associate Judicial Officer, or Acting Judicial Officer of the Postal Service.

(h) "Reconsideration" refers to the review of a debt conducted by the Inspection Service at the request of the former employee alleged to be responsible for such debt following the former employee's receipt of a written request for payment.

(i) "Recorder" refers to the Recorder, Judicial Officer Department, United States Postal Service, 475 L'Enfant Plaza, SW., Washington, DC 20260–6100.

§ 966.4 Petition for a hearing and supplement to petition.

(a) A former employee, who is alleged to be responsible for a debt and who has previously requested and received reconsideration of the debt by the Inspection Service, may obtain review of:

(1) The Inspection Service's final determination of the existence or amount of the debt, or

(2) The administrative offset schedule proposed by the Inspection Service for collecting any such debt, by mailing, within thirty (30) calendar days of receiving written notice of the Inspection Service's determination upon reconsideration, a written, signed petition, requesting a written or oral hearing, to the Recorder, Judicial Officer Department, United States Postal Service, 475 L'Enfant Plaza, SW., Washington, DC 20260–6100.

A former employee must have previously requested the Inspection Service to reconsider the Postal Service's debt determination to be entitled to a hearing under this part.

(b) The petition must include the following:

(1) The words, "Petition for Review Under 39 CFR Part 966";

(2) The former employee's name and social security number;

(3) The former employee's home address and telephone number, and any other address and telephone number at which the former employee may be contacted about these proceedings;

(4) A statement of the date the former employee received the Inspection Service's final notice of debt determination and a copy of the notice;

(5) A statement indicating whether the former employee elects an oral hearing or a decision based solely on written submissions;

(6) If the former employee requests an oral hearing, a statement describing the evidence he or she will produce which makes an oral hearing necessary, including a list of witnesses, with their addresses, whom the former employee expects to call; a summary of the testimony the witnesses are expected to present; the city requested for the hearing site, with justification for holding the hearing in that city; and at least three proposed dates for the hearing at least forty-five (45) days after the filing of the petition for review;

(7) A statement of the grounds upon which the former employee objects to the Postal Service's determination of the debt or to the administrative offset schedule proposed by the Postal Service for collecting any such debt. This statement should identify with reasonable specificity and brevity the facts, evidence, and legal arguments, if any, which support the former employee's position; and

(8) Copies of all records in the former employee's possession which relate to the debt and which the former employee may enter into the record of the hearing.

(c) The former employee may, if necessary, file with the Recorder additional information as a supplement to the petition at any time prior to the filing of the answer to the petition under § 966.7, or at such later time as permitted by the Hearing Official upon a showing of good cause.

§ 966.5 Effect of petition filing.

Upon receipt and docketing of the former employee's petition, the Recorder will notify the Chief Postal Inspector that the petition has been filed and that a timely filed petition stays further collection action.

§ 966.6 Filing, docketing and serving documents; computation of time; representation of parties.

(a) *Filing.* All documents required under this part must be filed by the former employee or the Chief Postal Inspector in triplicate with the Recorder. (Normal Recorder office business hours are between 8:15 a.m. and 4:45 p.m., eastern standard or daylight saving time as appropriate during the year.) The Recorder will transmit a copy of each document filed to the other party, and the original to the Hearing Official.

(b) *Docketing.* The Recorder will maintain a docket record of proceedings under this part and will assign each petition a docket number. After notification of the docket number, the former employee and Chief Postal Inspector should refer to it on any further filings regarding the petition.

(c) *Time computation.* A filing period under the rules in this part excludes the day the period begins, and includes the last day of the period unless the last day is a Saturday, Sunday, or legal holiday, in which event the period runs until the close of business on the next business day.

(d) *Representation of parties.* After the filing of the petition, further document transmittals for, or communications with, the Postal Service shall be through its representative, the Chief Postal Inspector. If a former employee is represented by an attorney authorized to practice law in any of the United States or the District of Columbia or a territory of the United States, further transmissions of documents and other communications with the former employee shall be made through his or her attorney rather than directly with the former employee.

§ 966.7 Answer to petition.

Within thirty (30) days from notice of the petition, the Chief Postal Inspector shall file an answer to the petition, and attach all available relevant records and documents in support of the Postal Service's claim, or the administrative offset schedule proposed by the Postal Service for collecting any such claim; a list of witnesses the Postal Service intends to call if an oral hearing is requested and the request is granted; a synopsis of the testimony of each witness; a statement of concurrence or objection to the proposed location and dates for the oral hearing; and a statement of the basis for the determination of debt or offset schedule if not contained in the relevant records

or documents. If the former employee files a supplement to the petition, the Chief Postal Inspector may file any supplemental answer and records to support the position of the Postal Service within twenty (20) calendar days from the date of receipt of the supplement filed with the Recorder.

§ 966.8 Hearing Official authority and responsibilities.

In conducting a hearing under this part, the Hearing Official's authority includes, but is not limited to, the following:

(a) Ruling on all offers, motions, or requests by the parties;

(b) Issuing any notices, orders, or memoranda to the parties concerning the hearing procedures;

(c) Conducting telephone conferences with the parties to expedite the proceedings (a memorandum of a telephone conference will be transmitted to both parties);

(d) Determining if an oral hearing is necessary and setting the place, date, and time for such hearing;

(e) Administering oaths or affirmations to witnesses;

(f) Conducting the hearing in a manner to maintain discipline and decorum while assuring that relevant, reliable and probative evidence is elicited on the issues in dispute, and that irrelevant, immaterial or repetitious evidence is excluded;

(g) Establishing the record in the case;

(h) Issuing an initial decision or one on remand; and

(i) Granting, at the request of either party, reasonable time extensions.

§ 966.9 Opportunity for oral hearing.

An oral hearing generally will be held only in those cases which, in the opinion of the Hearing Official, cannot be resolved by a review of the documentary evidence, such as when the existence, or amount, of a debt turns on issues of credibility or veracity. When the Hearing Official determines that an oral hearing is not necessary, the decision shall be based solely on written submissions.

§ 966.10 Initial decision.

(a) After the receipt of written submissions or after the conclusion of the hearing and the receipt of any post-hearing briefs, the Hearing Official shall issue a written initial decision, including findings of fact and conclusions of law, which the Hearing Official relied upon in determining whether the former employee is indebted to the Postal Service, or in upholding or revising the administrative offset schedule proposed by the Postal Service for collecting a former employee's debt. When the Judicial Officer presides at a hearing he or she shall issue a final or a tentative decision. The initial or tentative decision shall become the final agency decision unless appeal is taken pursuant to § 966.11.

(b) The Hearing Official shall promptly send to each party a copy of the initial or tentative decision, and a statement describing the right of appeal to the Judicial Officer in accordance with § 966.11.

(c) Unless the former employee or Chief Postal Inspector appeals the Hearing Official's initial or tentative decision within thirty (30) days from receipt of the decision, such decision shall become the final agency decision, and an order to that effect will be issued by the Judicial Officer.

§ 966.11 Appeal of initial or tentative decision to Judicial Officer.

(a) *Notice of appeal and supporting brief.* (1) A former employee or the Chief Postal Inspector may appeal an adverse decision by a Hearing Official by filing a Notice of Appeal with the Recorder within thirty (30) days after receipt of the decision. The Judicial Officer may extend the filing period upon written application of either party for good cause shown.

(2) The Notice of Appeal must be accompanied by a written brief specifying exceptions to findings of fact and conclusions of law, and any reasons for such exceptions, to the Hearing Official's decision.

(3) No later than thirty (30) days after receiving the Notice of Appeal and accompanying brief, the opposing party may file a response with the Recorder.

(b) *Form of review.* (1) Review by the Judicial Officer will be based on the entire record and written submissions.

(2) Objections or new issues not raised in the hearing will not be considered unless the interested party demonstrates that the failure to raise the objection or issue before the Hearing Official was caused by extraordinary circumstances.

(3) The Judicial Officer shall have all powers of a Hearing Official and on appeal may order the hearing reopened for the presentation of additional evidence or, in his or her discretion, remand the case to the Hearing Official for further action.

(c) *Decision of Judicial Officer.* The Judicial Officer shall affirm, reverse, or modify any decision appealed under this section and shall promptly serve each party to the appeal with a copy of this or her decision and a statement that such decision constitutes the final agency decision.

§ 966.12 Waiver of rights.

The Hearing Official may determine the former employee has waived his or her right to a hearing and administrative offset may be initiated if the former employee:

(a) Files a petition for hearing after the end of the prescribed thirty (30) day period, and fails to demonstrate to the satisfaction of the Hearing Official good cause for the delay;

(b) Has received notice to appear at an oral hearing but fails to do so without showing circumstances beyond the former employee's control;

(c) Fails to file required submissions or to comply with orders of the Hearing Official; or

(d) Files a withdrawal of his or her petition for a hearing with the Recorder.

§ 966.13 Ex parte communications.

Ex parte communications between a Hearing Official or his or her staff and a party shall not be made. This prohibition does not apply to procedural matters. A memorandum of any such procedural communication will be transmitted to both parties.

James A. Cohen,

Judicial Officer.

[FR Doc. 89-9300 Filed 4-18-89; 8:45 am]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP-300196; FRL-3557-2]

Pesticide Tolerance for Clofentezine; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction.

SUMMARY: In FR Doc. 89-6708, appearing at page 11704 in the **Federal Register** of March 22, 1989 (54 FR 11704; March 22, 1989), EPA added 40 CFR 180.446 establishing a tolerance of 0.5 part per million for the insecticide clofentezine in or on pears. The information in the "Date" heading inadvertently failed to include the effective date, which is hereby corrected to add the following sentence: "This regulation becomes effective on March 22, 1989."

FOR FURTHER INFORMATION CONTACT: Dennis Edwards, Jr., Product Manager (PM) 12, Registration Division (H-7505C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 202, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703) 557-2386.

Dated: April 7, 1989.

Herbert Harrison,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 89-9211 Filed 4-18-89; 8:45 am]

BILLING CODE 6560-50-M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101-20

[FPMR Amdt. D-89]

Management of Buildings and Grounds

ACTION: Final rule.

AGENCY: General Services Administration.

SUMMARY: Currently the GSA Rules and Regulations Governing Public Buildings and Grounds prohibit the possession of firearms and dangerous weapons (41 CFR 101-20.313) with penalty provisions stipulated in 41 CFR 101-20.35. However, the enactment of section 930 of Title 18, U.S. Code supersedes the penalty provisions stated in 41 CFR 101-20.315. Accordingly, FPMR Subchapter D is being amended.

EFFECTIVE DATE: April 19, 1989.

FOR FURTHER INFORMATION CONTACT: Richard Hankinson (202-566-0887).

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. The General Services Administration has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

List of Subjects in 41 CFR Part 101-20

Fire prevention, Blind, Safety, Concessions, Crime, Federal buildings and facilities, Government property management, Security measures.

PART 101-20—[AMENDED]

1. The authority citation for Part 101-20 continues to read as follows:

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

2. Section 101-20.313 is retitled and revised to read as follows:

§ 101-20.313 Explosives.

No person entering or while on property shall carry or possess explosives, or items intended to be used to fabricate an explosive or incendiary device, either openly or concealed, except for official purposes. (Weapons, see Title 18, U.S. Code 930.)

Dated: March 21, 1989.

Richard G. Austin,

Acting Administrator of General Services.

[FR Doc. 89-9322 Filed 4-18-89; 8:45 am]

BILLING CODE 6820-23-M

41 CFR Part 101-39

[FPMR Amdt. G-89]

Transportation and Motor Vehicles

AGENCY: Federal Supply Service, GSA.

ACTION: Final rule.

SUMMARY: This regulation provides additional criteria for approval of vehicle modifications or the addition of accessory equipment to GSA Interagency Fleet Management System vehicles. The GSA policy concerning the installation of accessory equipment in GSA vehicles has sometimes been interpreted inconsistently in that agencies or agency personnel have installed equipment that is either illegal or reflects an inappropriate impression of the Government worker to the public.

EFFECTIVE DATE: April 19, 1989.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Moses, Fleet Management Division (703-557-1273).

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. The General Services Administration has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

List of Subjects in 41 CFR Part 101-39

Interagency fleet management system.

PART 101-39—INTERAGENCY FLEET MANAGEMENT SYSTEMS

1. The authority citation for Part 101-39 continues to read as follows:

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

Subpart 101-39.3—Use and Care of Interagency Fleet Management System Vehicles

2. Section 101-39.304 is revised to read as follows:

§ 101-39.304 Modification or installation of accessory equipment.

The modification of a GSA Interagency Fleet Management System (IFMS) vehicle or the permanent installation of accessory equipment on these vehicles may be accomplished only when approved by GSA. For the purpose of this regulation, permanent installation means the actual bolting, fitting, or securing of an item to the vehicle. Such modification or installation of accessory equipment must be considered by the using agency as essential for the accomplishment of the agency's mission. The request for such modification or installation shall be forwarded to the appropriate GSA Regional Fleet Manager for consideration. Accessory equipment or other after-market items which project an inappropriate appearance, such as radar detectors, will not be used on IFMS vehicles. Decorative items (i.e., bumper stickers and decals) will not be used on IFMS vehicles unless authorized by the Director, Fleet Management Division, GSA.

Dated: March 23, 1989.

Richard G. Austin,

Acting Administrator of General Services.

[FR Doc. 89-9323 Filed 4-18-89; 8:45 am]

BILLING CODE 6820-24-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Child Support Enforcement

45 CFR Parts 302, 303, and 305

RIN 0970-AA03

Child Support Enforcement Program; Implementation of Section 9103 of Public Law 99-509: Prohibition of Retroactive Modification of Child Support Arrearages

AGENCY: Office of Child Support Enforcement, HHS.

ACTION: Final rule.

SUMMARY: These final rules implement section 9103 of Pub. L. 99-509, the

Omnibus Budget Reconciliation Act of 1986, which amended section 466(a) of the Social Security Act (the Act), effective October 21, 1986. Section 9103 requires that, as a condition of State IV–D plan approval, States have in effect laws requiring the use of procedures to prohibit retroactive modification of child support arrearages. However, such procedures may permit modification with respect to any period during which there is pending a petition for modification, but only from the date that notice has been given, either directly or through the appropriate agent, to the obligee or (where the petitioner is the obligee) to the obligor. Specifically, State IV–D agencies must have in effect and use procedures whereby any payment or installment of support under any child support order is, on and after the date it is due, a judgment by operation of law, with the full force, effect, and attributes of a judgment of the State and is entitled, as such, to full faith and credit in such State and in any other State.

A clear implication of child support becoming a final judgment when due is that when there is more than one child support order for the same child, absent parents owe the amount of the order providing the greatest support. If, for example, a Uniform Reciprocal Enforcement of Support Act (URESA) order requires $150 child support while a divorce order requires $200, the full $200 becomes a final judgment. If the State of residence of the absent parent enforces $150 for current support, the absent parent still owes the additional $50 as an accumulated arrearage. It would generally be more efficient for the absent parent's State to enforce the original order, without the need to obtain a new or revised order. Interstate wage withholding offers this efficiency when the absent parent is a wage-earner. The Social Security Act requires that wage withholding systems include cases where the applicable support orders were issued in other States. It would be desirable to have similarly efficient processes for cases with other types of income and assets. The requirement that the Secretary promulgate rules necessary for efficient administration, so long as they are not inconsistent with other parts of the relevant statutes, authorizes the Secretary to require changes that would simplify and expedite interstate cases. The Department hopes that the Interstate Child Support Commission established by the Family Support Act of 1988 (Pub. L. 100–485) will suggest ways to move towards a more efficient process while still preserving due process rights.

While the effective date of this statute was October 21, 1986, under section 9103(b)(2) of Pub. L. 99–509, if a State demonstrates to the Secretary, HHS, that State legislation is required to conform the State IV–D plan to the requirements of this statute, a delay based on the need for legislation may be granted. In such a case, the State's plan would not be regarded as failing to comply solely by reason of its failure to meet the requirements imposed by the new amendments until the beginning of the fourth month beginning after the end of the first session of the State's legislature which ends on or after October 21, 1986.

EFFECTIVE DATE: April 19, 1989.

FOR FURTHER INFORMATION CONTACT: Michael Fitzgerald, Policy Branch, OCSE (202) 252–5366.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

Public reporting burden for the collections of information requirements at 45 CFR 302.70(a)(9), 303.106(a), 303.106(b) and 305.57 is estimated to average 10, 1,000, .5 and 1,000 minutes per response respectively, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Child Support Enforcement, Family Support Administration, 370 L'Enfant Promenade SW., Washington, DC. 20447; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC. 20503.

Background

Section 9103 of Pub. L. 99–509 is a result of Congress' recognition of the disparity among States regarding the treatment of child support orders, and in particular, a concern about State laws and practices permitting modification of child support arrearages. Although most States permit child support orders to be modified only prospectively, thus affecting only future child support payments, some States have accorded child support orders a lesser stature than other money judgments, and have allowed child support awards to be modified retroactively. In such States, the court or administrative entity has had the authority to r+duce or nullify arrearages by reducing the amounts owed for past periods.

Prior to enactment of section 9103 of Pub. L. 99–509, 18 States permitted child support orders to be modified retroactively. The vast majority of such retroactive modifications when they occurred had the effect of reducing the amount of child support ordered. Thus, for example, an order for $200 a month for child support, which was unpaid for 36 months, should accumulate an arrearage of $7,200. Yet, if the obligor was brought to court, having made no prior attempt to modify the order, the order might be reduced to $100 a month retroactive to 36 months prior to the date of modification. This has the effect of reducing the arrearage from $7,200 to $3,600. The order could be reduced without placing any diligence requirement on the absent parent to petition in a timely manner to reduce the order, if for some reason his or her ability to comply with the order had changed. Such laws further permitted arguments to be made about changed circumstances in prior periods at a time when evidence may not have been easily attained or available. Rebuttal, by the obligee, thus, was extremely difficult.

In interstate cases involving registration of out-of-State child support orders, where the absent parent resided in a State different from the one where his or her children resided or where the child support order was entered, the problem of retroactive modification was exacerbated. In such cases, the custodial parent usually could not be present when the case was heard in the absent parent's State and was thus unable to testify about any claimed past change in circumstances.

In addition to the 18 States which prior to enactment of Pub. L. 99–509 permitted retroactive modification of child support orders, 17 other States did not require reducing child support debts to final judgment as the payments became due. As a result, the child support debts were not entitled to full faith and credit in other States as is the case with other money judgments.

In light of this situation, section 9103 added a new requirement to section 466(a) of the Act which States must meet in order to have an approved title IV–D State Plan. Specifically, under section 466(a)(9), States must have in effect laws requiring the use of procedures under which any payment or installment on a child support order is a judgment, on and after the date each payment is due, and retroactive modification of child support orders is prohibited with the following exception. Modification

may be permitted with respect to any period during which there is pending a petition for modification, but only from the date notice of such petition has been given, either directly or through the appropriate agent, to the obligee or (where the obligee is the petitioner) to the obligor.

In the past, when an absent parent moved out of the State where a support obligation had been established, the IV–D agency representing the custodial parent often would be required to use the Uniform Reciprocal Enforcement of Support Act (URESA) in order to obtain an enforceable order in the absent parent's new State of residence. Using URESA is time consuming and frustrating for the custodial parent owed a support obligation. Under URESA, the absent parent generally has the opportunity to allege inability to pay the previously established support amount, which may result in a lower support order being entered. Under the requirement specified by section 9103, all child support orders in a State, including orders entered before October 21, 1986, can now be enforced by any other State (e.g., by registration under the Uniform Enforcement of Foreign Judgments Act) without creating a new child support order. Such a provision will ensure that the processing of interstate cases will be less time consuming and less costly when the custodial parent already has a child support order, and child support collections will increase because accumulated arrearage debts will stay intact and not be reduced or forgiven. Specific remedies to enforce these judgments will be determined by the State where the judgment was entered or is registered, pursuant to State law.

Section 9103 of Pub. L. 99–509 adds a ninth mandatory procedure to section 466(a) of the Act which requires States to have in effect laws requiring the use of certain procedures to increase the effectiveness of their child support enforcement programs in order to have an approved title IV–D State plan. The previously existing mandatory procedures are:

(1) Wage withholding;

(2) Expedited processes to establish and enforce child support obligations;

(3) State income tax refund offset;

(4) Imposition of liens against real and personal property;

(5) Establishment of paternity at least until the child's 18th birthday;

(6) Requiring an absent parent to give security or post a bond or some other guarantee to secure payment of support;

(7) Making information regarding the amount of overdue support owed by an absent parent available to consumer reporting agencies; and

(8) Provision for wage withholding in all child support orders which are issued or modified in the State.

The new mandatory procedure added by section 9103 requires that any payment or installment of support under any child support order, whether ordered through the State judicial system or through the State's expedited processes, is (on and after the date it is due):

(A) A judgment by operation of law, with the full force, effect, and attributes of a judgment of the State, including the ability to be enforced;

(B) entitled as a judgment to full faith and credit in such State and in any other State; and

(C) not subject to retroactive modification by such State or by any other State.

However, such procedures may permit modification with respect to any period during which there is pending a petition for modification, but only from the date that notice has been given, either directly or through the appropriate agent, to the obligee (or where the obligee is the petitioner) to the obligor.

While the effective date of this statute is October 21, 1986, under section 9103(b)(2) of Pub. L. 99–509, if a State demonstrates to the Secretary, HHS, that State legislation is required to conform the State IV–D plan to the requirements of the statute, a delay in implementation based on the need for legislation may be granted. In such a case, the State's IV–D plan would not be regarded as failing to comply with the requirements imposed by the amendment until the beginning of the fourth month beginning after the end of the first session of the State's legislature which ends on or after October 21, 1986.

Statutory Authority

This final rule is published under the authority of section 1102 of the Social Security Act (the Act) which requires the Secretary to publish regulations that may be necessary for the efficient administration of the functions for which he is responsible under the Act. Section 454(20) of the Act requires State plans to provide that States have in effect laws requiring the use of the procedures prescribed in section 466 of the Act to increase the effectiveness of their Child Support Enforcement programs, and have implemented procedures regarding such laws. Section 9103 of Pub. L. 99–509 added a new paragraph (9) under section 466(a) which requires that States have in effect laws requiring the use of procedures which provide that any payment or installment of support under any child support order is a judgment, entitled to full faith and credit, and not subject to retroactive modification.

Regulatory Provisions

This regulation revises § 302.70(a) to specify that the effective date for paragraphs (1) through (8) is October 1, 1985 and for paragraph (9) is October 21, 1986.

In addition, this regulation adds a new paragraph (9) under § 302.70(a) to require that any payment or installment of support under any child support order is, on and after the date it is due, a judgment, and may not be modified retroactively.

This regulation also amends 45 CFR Part 303 to add a new § 303.106 entitled Procedures to prohibit retroactive modification of child support arrearages. Paragraph (a) of this section requires States to have in effect and use procedures which provide that any payment of child support, on and after the date it is due, is a judgment, by operation of law. This requirement provides that the child support installment must become a judgment without the need for any action by an entity; it becomes a judgment simply by a payment falling due. Paragraph (a)(2) of § 303.106 requires that the judgment be entitled to full faith and credit in the originating State and in any other State. Full faith and credit is a Constitutional principle which provides that the various States must recognize the judgments of the other States within the United States and accord them the force and effect they would have in their home State.

Paragraph (a)(3) states that the judgment is not subject to retroactive modification, except as provided under paragraph (b) of this section. The intent of this requirement is to prohibit courts or administrative entities from forgiving or reducing arrearages.

Paragraph (b) provides for the exception referred to in paragraph (a)(3) that permits limited retroactive modification of child support orders. The first condition is that modification may be permitted by the State for any period during which there is pending a petition for modification. The second condition requires that the modification may only be permitted from the date that notice of such petition has been given, either directly or through the appropriate agent to the obligee or (where the obligee is the petitioner) to the obligor.

These regulations also amend the audit regulations by adding a new § 305.57 entitled Retroactive

modification of child support arrearages. This audit criterion provides that, in order to meet the requirements of title IV–D, the State must have laws in effect and be using procedures which require that any payment or installment of support under any child support order is, on and after the date it is due, a judgment, and may not be modified retroactively, except as provided in 45 CFR 303.106 of this chapter.

Public Comment

A notice of proposed rulemaking was published in the **Federal Register** (52 FR 34689) on September 14, 1987. The comment period ended on November 13, 1987. We received 12 written comments from State and local agencies, 8 from organizations and 2 from private citizens. Although no changes were made to the regulatory language itself as a result of comments, the comments and our responses are discussed below.

General Comments

1. *Comment:* One commenter objected to the proposed regulation stating that it is virtually identical to the statute and provides no guidance to the States which is inconsistent with section 1102 of the Social Security Act.

Response: We believe that Federal law and regulations regarding the prohibition of retroactive modification of support arrearages are clear and precise. Guidance is largely unnecessary because the law leaves little room for interpretation. The States should have little trouble implementing these provisions by close adherence to the statutory language.

2. *Comment:* One commenter indicated that the law regarding the prohibition of retroactive modification of support arrearages requires that the other party receive a notice of the petition but does not address sending subsequent notices of court proceedings to that party. The commenter said that notice of each step in the process would enable the custodial parent to participate if desired.

Response: Federal law and regulations only require the party requesting the modification to send the other party a notice regarding the petition to modify support arrearages. State due process requirements should ensure that all parties to a proceeding to modify support arrearages receive a notice regarding any subsequent proceedings. If the State, as assignee of the support rights, receives such notices, the IV–D agency should keep the custodial parent informed regarding the status of any action to modify support arrearages in accordance with the new law.

3. *Comment:* With respect to the delay in implementation built into the statute, a comment was received on the definition of the term "session" as any regular, special, budget, or other session of a State legislature. The commenter suggested that we work with Congress to get the definition of the term "session" revised to include only "regular" sessions of a State legislature.

Response: The term "session," as defined in the delay of implementation provision of the new law, is identical to the definition of the same term found in the delay of implementation provisions in the Child Support Enforcement Amendments of 1984. We believe that the definition of the term "session" as used in these provisions has encouraged the States to implement Federal requirements as soon as possible.

4. *Comment:* One commenter suggested that a Regulatory Flexibility Analysis be conducted due to the additional cost and effort that may be required because of the requirement that support payments are judgments on and after the date they are due.

Response: Under the Regulatory Flexibility Act of 1980 (Pub. L. 96–354), we are required to prepare a regulatory flexibility analysis for those rules which will have a significant economic impact on a substantial number of small entities. We believe that the requirement that payments become judgments on and after the date they are due will save the States money and time. The cost of interstate enforcement activities, in particular, will be reduced because there is no longer a need for a State to incur costs or expend efforts to obtain an in-State child support order before the State can enforce past-due support owed under another State's order. Since we believe that the net effect of these requirements will be cost savings, a regulatory flexibility analysis is not required.

Judgment

5. *Comment:* Two commenters indicated that, because any payment or installment is now a separate judgment on and after the date it is due, the collection of support will be more complicated, costly and time consuming. Also, the commenters stated that judgments are obtained for direct collection and to notify third parties, either creditors or potential lenders, that the obligor has a settled debt that can be applied as a lien against property. The commenters further stated that the requirement that each payment or installment of support is a judgment as of the date it is due will confuse third parties who must conduct business based on the current situation of the obligor.

Response: We do not believe that the establishment of separate judgments for each payment or installment of child support on the date it is due makes the collection of support more complicated, costly, and time consuming. States may collect past-due support without seeking additional court or administrative action to reduce the amount due to a judgment. Currently, the States maintain records on the amount of support owed and paid on a monthly or weekly basis. Many States maintain these records on efficient and effective automated systems at minimal cost. The maintenance of information regarding separate judgments should not place an additional burden on the States.

Creditors or potential lenders can seek credit information on absent parents from consumer credit reporting agencies which can request information on child support arrearages from the IV–D agencies, Clerks of Court, or other State payment registries. States should maintain payment records which include the current total of the child support arrearages for each child support case. Child support arrearages should be treated as any other debt, and, if in arrears, the obligation may result in a lien against property of the obligor in accordance with State law.

6. *Comment:* Several commenters indicated that the regulatory provisions regarding payments becoming judgments by operation of State law when they fall due should be revised to indicate that: (1) Judgments must be recorded monthly; (2) the judgment must be accompanied by a certification of the obligee that the amount of the arrearage is accurate; and (3) notice of the judgment must be sent to the obligor. These commenters believe that these changes will virtually eliminate requests from obligors to open or strike a judgment, and lessen the number of errors in the amounts of judgments which impact real estate searches and credit reports.

Response: We do not believe the commenters' suggested changes are warranted. State child support case payment records, in most States, should eliminate the need for: (1) Recording judgments periodically; or (2) obtaining certification from the obligee that the amount of the judgment (arrearage) is accurate. States that have inadequate child support payment records will have to make the changes necessary to maintain current and accurate record keeping systems. There is certainly no need to send a notice of each incremental change in the judgment to

the obligor since he or she is responsible for meeting the obligation and will know when he or she has failed to do so. Finally, Federal law regarding the prohibition of retroactive modification of support arrearages should limit requests from obligors to open or strike a judgment.

7. *Comment:* One commenter objected to the regulatory provision that makes any child support payment or installment, under a support order, a judgment as of the date it is due because: (1) It is contrary to standard law and practice; (2) it raises a Constitutional issue regarding separation of powers; and (3) it violates the obligor's due process rights.

Response: Federal law provides that any payment or installment of support under any child support order is, on and after the date it is due, a judgment by operation of law, with the full force, effect, and attributes of a judgment of the State, including the ability to be enforced. The commenter did not explain how the principle of separation of powers is allegedly violated, but this requirement has long been the established law of many States and we are unaware of any challenges on Constitutional grounds. We believe that Congress is simply requiring States to afford child support debts the same status as other court or administratively ordered debts in the State that are considered judgments.

In addition, the commenter did not explain how due process was violated. The child support obligor's due process rights are protected under State law when the support obligation is established. Also, the obligor, subject to enforcement of a child support judgment, is entitled to the same due process protections that apply to the enforcement of other judgments in the State. For example, an obligor who alleges that all payments to the custodial parent have been made, may be entitled under State law to a hearing before the court or administrative authority.

8. *Comment:* One commenter asked how long it generally takes a court to act on a petition for modification of support. The commenter also recommended that the regulations specify a time frame within which a final judgment must be issued after a petition for modification of a support order is filed because the custodial parent may face problems without the additional support.

Response: Historically, there have been large backlogs of child support cases in State courts awaiting resolution. However, as a result of the Child Support Enforcement Amendments of 1984, Federal regulations governing the Child Support Enforcement program at 45 CFR 303.101 require the States to have in effect and use expedited processes (administrative and/or expedited judicial processes) to establish and enforce child support orders. Under expedited processes, actions to establish and enforce support orders in IV–D cases must be completed from the time of filing to the time of disposition within the following timeframes: (1) In 90 percent of all cases, within 3 months, (2) 98 percent in 6 months; and (3) 100 percent in 12 months. This standard also applies to the modification of support orders in IV–D cases under expedited processes unless complex issues are involved requiring judicial resolution (45 CFR 303.101(b)(4)).

Prohibition of Retroactive Modification

9. *Comment:* A commenter indicated that the prohibition of retroactive modification of support orders requirement does not provide exceptions for individuals who are unable to promptly file for modification due to severe injury or sudden lengthy illness. Several commenters objected to the prohibition of retroactive modification of support because it requires the obligor who obtains custody of a child or is temporarily out of work to immediately file a petition to modify the support order and applies to the obligor who may have to satisfy arrearages that accrued after a child died or was emancipated.

Response: Federal law does not provide for any exception to the prohibition of retroactive modification of support arrearages other than for the period after the date notice of the petition for modification is given until the modification occurs. Congress in Senate Report No. 99–348, page 155, and in the Conference Report No. 99–1012, Page 273, indicated that, if the non-custodial parent's circumstances change because of unemployment, illness or another such reason, the non-custodial parent is responsible for notifying the custodial parent and the court or entity that issued the child support order of the changed circumstances and his or her intention to modify the support order. The obligor is in the best position to know of a change in circumstances and bring it to the attention of the court or administrative authority.

It is the obligor's responsibility to take action promptly to seek modification of a support obligation based on a change in his or her circumstances. The obligor or his or her representative should immediately, upon the development of any circumstances that inhibit his or her ability to pay support, file a petition with the court or administrative authority to modify the support order. These circumstances might include: (1) The obligor is unable to pay support due to confinement or incarceration in a mental or penal institution; (2) the child goes to live with the obligor; (3) the child is emancipated or dies; (4) the obligor becomes permanently, or temporarily disabled, or seriously ill, with no benefits, earning capacity or assets; or (5) the obligor becomes unemployed. If the obligor cannot afford legal counsel, the obligor should seek assistance from any available public legal services.

Federal law and regulations do not preclude the States from having laws that permit automatic prospective suspension or prospective termination of the support obligation upon the development of specific circumstances such as the emancipation or death of a child. Such "modifications by operation of law" upon the occurrence of an event known to both parties, if applicable generally to all child support orders in the State, would not appear to contradict the intent of the law. We would caution, however, that any apparent "exceptions" to the general rule barring retroactive modification of support orders will be closely scrutinized for purposes of determining State IV–D plan conformity.

Enforcement of child support judgments should be treated the same as enforcement of other judgments in the State, and a child support judgment would also be subject to the equitable defenses that apply to all other judgments. Thus, if the obligor presents to the court or administrative authority a basis for laches or an equitable estoppel defense, there may be circumstances under which the court or administrative authority will decline to permit enforcement of the child support judgment. We do not, however, believe that a temporary loss of employment or even a change of actual custody of the child should result in a modification of support liability unless the court or administrative authority is duly notified and sanctions such modification.

10. *Comment:* Another commenter indicated that the provisions regarding the prohibition of retroactive modification of support arrearages result in deprivation of Constitutional rights, denial of due process, and lack of equity and fair play in cases in which there are changes in circumstances and, for various reasons, the obligor does not seek to modify the order. Several commenters objected to the prohibition of retroactive modification of support because the requirement will cause substantial litigation due to the denial of

property and other rights and due process to obligors.

Response: Federal law and regulations provide that child support judgments will be treated in the same manner as any other judgment in the State. A child support debtor whose circumstances change is entitled to the same fairness and equity defenses and due process rights as other judgment debtors in the State. An obligor subject to the enforcement of a child support judgment is entitled to the same due process protection and statutory exemptions that apply to the enforcement of other judgments within the State.

We encourage States to establish expedited procedures for modification of child support judgment orders whenever there is a substantial change in the circumstances of either party. State laws and court orders can provide for prompt, efficient modifications of support obligations when deemed appropriate. In addition, some occurrences (e.g., death or emancipation of a dependent child) might be construed under State law as triggering automatic prospective termination or modification of the support obligation to avoid inequitable results.

11. *Comment:* Three commenters objected to the prohibition of retroactive modification of support arrearages because it replaces the case-by-case review by the judiciary which they believe is necessary to ensure fairness and equity. For example, if the obligor loses his or her job or becomes seriously ill and lacks the funds or knowledge to pursue immediate modification of the support order, arrearages will accrue which otherwise might have been avoided. Several commenters objected to the prohibition of retroactive modification of support because it limits judges' discretion and authority and prohibits the obligor from challenging improperly calculated arrearages.

Response: Federal law and regulations will require some States to amend laws and to limit judicial discretion and authority regarding the retroactive modification of support arrearages. In a relatively small number of cases there may be situations where obligors fail to seek or are unable to obtain prompt modifications to which they may have been entitled. We believe, however, that this law remedies a greater inequity which previously occurred in many more cases where a child support obligor, through his or her own neglect or refusal to comply with the support order, incurred arrearages which were subsequently reduced or forgiven entirely by the court. In such situations the obligor's children paid the consequences through no fault or responsibility of their own. We encourage States to enact laws providing expedited procedures for prompt modification of support obligations whenever circumstances change (e.g., an obligor becomes incapacitated). In addition, the courts or administrative authority should provide guidance when child support orders are entered encouraging either party to notify the court or administrative authority when circumstances change.

Federal law and regulations do not prohibit the correction of improperly calculated arrearages; the IV–D agency, judiciary or administrative authority may correct any improperly calculated arrearages.

12. *Comment:* A commenter suggested that the proposed regulations be revised to permit retroactive reduction of support arrearages if a determination is made that failure to pay support was not willful. The commenter indicated that incarcerated individuals unable to obtain prompt legal representation would be assisted by this change. Another commenter indicated that the proposed regulations place a hardship on incarcerated individuals who are, for the most part, incapable of paying support, or securing legal counsel.

In addition, several commenters suggested that the regulations be revised to indicate that when a person is confined to jail, prison or a mental health institution or treatment facility, the initial date of confinement is constructive notice that a petition to revise the support obligation during the period of incarceration or confinement is pending. The commenters believe that this change is necessary because: (1) Many inmates do not have prompt access to legal assistance or the courts; (2) the ability to pay support is affected by incarceration or confinement; (3) support arrearages that accrue while an individual is confined or incarcerated cannot be modified once an individual is released; and (4) the accumulation of support arrearages while an individual is confined or incarcerated may discourage an individual from working while incarcerated or upon release.

Response: The obligor, including an incarcerated individual, is generally responsible for filing a request for modification of the support order with the appropriate court or administrative authority immediately upon any change in circumstances which affects the ability to pay, or need for support. The law does not provide any exception for obligors who failed to file in a timely manner for any reason including lack of knowledge regarding the process, prompt access to counsel, and lack of money. If the obligor cannot afford legal counsel, the obligor should seek assistance from available public legal services or should contact the court or administrative authority directly.

The Federal Government does not prescribe State requirements for notice of filing a petition to suspend or modify a support obligation. The State's own procedures of due process specify exactly what notice is required in the circumstances presented by the commenter. It would appear that States might enact laws that could provide for automatic prospective suspension of support obligations when a person is placed in a hospital or institution and does not have the assets or unearned income necessary to meet the support obligation if such laws applied generally to all judgment debtors in the State. Some obligors may, however, have assets or investment income which are adequate to meet their obligations even during periods of temporary unemployment. We believe that most modifications should be subject to approval of the court or administrative authority, and that the obligor is usually in the best position to bring changes in his or her circumstances to the court's or administrative authority's attention.

13. *Comment:* One commenter suggested that the regulations be revised to indicate that prohibition of retroactive modification of support arrearages in the 18 States that permitted such modification before the new law be a "rebuttable presumption" rather than an absolute prohibition.

Response: Federal law does not allow exceptions to the prohibition of retroactive modification of support arrearages for some States based on their past practices, and we believe the proposed change to the regulation would be improper. The prohibition applies on the same basis to all States; States may not use a "rebuttable presumption" standard.

14. *Comment:* One commenter suggested that the regulations be revised to permit the parties (obligee and obligor) to stipulate to a retroactive reduction of the child support arrearage if the obligor agrees to make an immediate lump sum payment. Several commenters suggested that the regulations be revised to permit retroactive modification of support arrearages by agreement of the parties. A commenter also asked whether a State law that permits a court approved agreement between the parties to retroactively modify a support order is consistent with section 9103 of Pub. Law 99–509. If not, the commenter further suggested that the regulations indicate

that this is not permissible. Another commenter suggested that the regulations be revised to clarify that the prohibition of retroactive modification of support arrearages does not provide for any judicial or parental discretion.

Response: Federal law and regulations provide that child support is a judgment on and after the date due with the full force, effect and attributes of a judgment of the State. Such support judgments may, however, be compromised or satisfied by specific agreement of the parties on the same grounds as exist for any other judgment in the State. Judgments involving child support arrearages assigned to the State under titles IV–A, IV–E and XIX of the Social Security Act, of course, may not be compromised by an agreement between the obligee and obligor unless the State, as assignee, also approves such an agreement. State law may require that any agreement affecting child support orders must be endorsed by the court or administrative authority to ensure that the best interests of the child are protected.

15. *Comment:* One commenter asked whether the law regarding the prohibition of retroactive modification of support arrearages applies to a custodial parent's request to increase the amount of arrearages and future payments. The commenter further asked whether, if the new law applies to this situation, does the modification apply as of the date the obligor receives notice of the petition.

Response: Federal law and regulations permit an upward modification of the support order and related arrearages for any period during which a petition is pending for modification, but only from the date notice has been given, either directly or through the appropriate agent, to the obligor.

16. *Comment:* One commenter asked about the extent of IV–D agency responsibility for judicial compliance with the prohibition of retroactive modification requirements.

Response: OCSE approval of a State plan amendment regarding the prohibition of retroactive modification of support arrearages requirements is dependent upon whether the State has in effect the necessary State laws and procedures required by the new Federal law. Judges would be required by State law to comply with the prohibition of retroactive modification requirements.

Federal law requires each State to operate a Child Support Enforcement program throughout the State in accordance with the requirements of title IV–D of the Social Security Act, including the prohibition of retroactive modification of support arrearages. To ensure that a State has an effective Child Support Enforcement program, OCSE conducts an audit of each State's Child Support Enforcement program, at least once every three years, to determine whether the State is in substantial compliance with the requirements of title IV–D of the Act. If, as the result of an audit, a determination is made that the State did not substantially comply with the requirements regarding the prohibition of retroactive modification of support, the State will be subject to a reduction of Federal funding under title IV–A of the Act.

17. *Comment:* One commenter suggested that the regulations be revised to specify that, at the time the support obligation is established, the obligor be notified of the requirements regarding the prohibition of retroactive modification of support arrearages. The commenter also suggested that the regulations be revised to require prison administrators to give immediate notice to inmates regarding the prohibition of retroactive modification of support arrearages requirements.

Response: Federal law and regulations do not prohibit the State from notifying the parties, at the time the support order is established, or, in the case of incarceration, at the time of incarceration, notifying the obligor, of the prohibition of retroactive modification of support arrearages requirements. We believe that the States are in the best position to determine the means, and under what circumstances, notice should be provided.

18. *Comment:* A comment was received on the requirement that arrearages may be modified, but only from the date notice of the petition for modification has been given to the obligee, or where the obligee is the petitioner, to the obligor. The commenter suggested that this provision refers to the date action is filed and notice is issued or the date the notice is issued if the notice is not issued on the same date the petition is filed, rather than the date notice is received by the opposing party. The commenter's rationale was that it is consistent with general law that the court's powers are invoked and exercisable as of the date the petition is filed and notice is sent to the other party. The commenter believes that the legislative history regarding the prohibition of retroactive modification of arrearages supports this position.

A second commenter suggested that the regulations be revised to permit retroactive modification of support arrearages as of the date the notice is filed, rather than the date of service on the obligor because most motions to modify include requests to increase the support order and the obligor will attempt to avoid service of process. Several other commenters also recommended that the regulations be revised to permit retroactive modification of support arrearages as of the date the petition is filed. One of these commenters indicated that the preamble does not address why the regulation requires the States to abandon the longstanding legal principle that a judgment may be modified retroactively at least to the date it is filed. Another commenter suggested that the regulations be revised to indicate that modification of support arrearages can take place during any period in which a petition for modification is pending if the party seeking modification of support arrearages shows diligence in providing notice to the other party because various tactics will be used by the obligor to avoid service of process.

Finally, a commenter asked that we explain the meaning of the word "given" as used in the phrase "the date notice of the petition has been given" in the proposed regulations.

Response: Federal law permits the retroactive modification of support arrearages during any period in which a petition for modification is pending, but only from the date that notice of the petition has been given, either directly or through the appropriate agent, to the obligee, or where the obligee is the petitioner, to the obligor. The regulatory requirement mirrors the Federal statutory language. We believe Congress intended that "date of notice" or "date notice is given" should be construed literally and in terms of acquiring personal jurisdiction over the other party. State law provides rules to determine when personal jurisdiction is acquired by service of notice of an action. Under these provisions, the "date of notice" or "date notice is given" should be interpreted by the State in the same way as it is generally applied to commence other civil litigation within the State. State law regarding the establishment of the date of notice that a petition has been filed dictates when the modification may be effective. The date of notice may be the same date on which the petition is filed if "notice is given" on the same date by publication or other means and personal service is not required under State law.

Although the effective date of any modification is tied to the date notice of the petition is given, we believe notice through the mail or other means may be sufficient so long as the State has

acquired personal jurisdiction over the other party under State law. Thus, the party named in the petition could not necessarily avoid the process server to delay the effective date of any modification. However, the date of notice is subject to State due process requirements. Consequently, some States may tie "date of notice" to actual receipt of personal service if that is the standard in the State for securing personal jurisdiction over the opposing party in a modification proceeding.

Regulatory Impact Analysis

The Secretary has determined, in accordance with Executive Order 12291 that this rule does not constitute a "major" rule for the following reasons:

(1) The annual effect on the economy is less than $100 million;

(2) This rule will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and

(3) This rule will not result in significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Analysis

Under the Regulatory Flexibility Act of 1980 (Pub. L. 96–354), we are required to prepare a regulatory flexibility analysis for those rules which will have a significant economic impact on a substantial number of small entities. For this rule, the principle impact is on State IV–D agencies who will be required to expend minimal effort, and on the judicial system. This provision could potentially save money for both the Federal Government and the States by increasing amounts available for collection and reducing the costs of collecting support. Further, the cost of interstate enforcement activities will be reduced by eliminating the need to obtain a child support order in more than one State. Therefore, a regulatory flexibility analysis is not required.

List of Subjects

45 CFR Part 302

Child support, Grant programs—social programs, Reporting and recordkeeping requirements.

45 CFR Part 303

Child support, Grant programs—social programs, Reporting and recordkeeping requirements.

45 CFR Part 305

Accounting, Child support, Grant programs—social programs, Reporting and recordkeeping requirements.

(Catalog of Federal Domestic Assistance Program No. 13.783, Child Support Enforcement Program.)

Dated: September 26, 1988.

Wayne A. Stanton.

Director, Office of Child Support Enforcement.

Approved: October 4, 1988.

Otis R. Bowen,

Secretary.

Editorial Note: This document was received by the Office of the Federal Register, April 14, 1989.

For the reasons set out in the preamble, Title 45, Chapter III of the Code of Federal Regulations is amended as follows:

PART 302—[AMENDED]

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

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

2. Section 302.70 is amended by amending paragraph (a) by: revising the introductory text; removing the word "and" at the end of paragraph (a)(7); removing the period at the end of paragraph (a)(8) and inserting "; and" in its place; and, adding paragraph (a)(9) to read as follows:

§ 302.70 Required State laws.

(a) *Required laws.* Effective October 1, 1985, with respect to paragraphs (a)(1) through (8) of this section, and effective October 21, 1986, with respect to paragraph (a)(9) of this section, the State plan shall provide that, in accordance with sections 454(20) and 466 of the Act, the State has in effect laws providing for and has implemented the following procedures to improve program effectiveness:

* * * * *

(9) Procedures which require that any payment or installment of support under any child support order, whether ordered through the State judicial system or through the expedited processes required by paragraph (a)(2) of this section, is (on and after the date it is due):

(i) A judgment by operation of law, with the full force, effect, and attributes of a judgment of the State, including the ability to be enforced;

(ii) Entitled as a judgment to full faith and credit in such State and in any other State; and

(iii) Not subject to retroactive modification by such State or by any other State, except as provided in § 303.106(b).

* * * * *

PART 303—[AMENDED]

3. The authority citation for Part 303 continues to read as follows:

Authority: 42 U.S.C. 651 through 658, 660, 663, 664, 666, 667, 1302, 1396a(a)(25), 1396b(d)(2), 1396b(o), 1396b(p) and 1396(k).

4. Part 303 is amended by adding § 303.106 to read as follows:

§ 303.106 Procedures to prohibit retroactive modification of child support arrearages.

(a) The State shall have in effect and use procedures which require that any payment or installment of support under any child support order is, on and after the date it is due:

(1) A judgment by operation of law, with the full force, effect, and attributes of a judgment of the State, including the ability to be enforced;

(2) Entitled as a judgment to full faith and credit in such State and in any other State; and

(3) Not subject to retroactive modification by such State or by any other State except as provided in paragraph (b) of this section.

(b) The procedures referred to in paragraph (a)(3) of this section may permit modification with respect to any period during which there is pending a petition for modification, but only from the date that notice of such petition has been given, either directly or through the appropriate agent, to the obligee or (where the obligee is the petitioner) to the obligor.

PART 305—[AMENDED]

5. The authority citation for Part 305 continues to read as follows:

Authority: 42 U.S.C. 603(h), 604(d), 652(a)(1) and (4), and 1302.

6. Part 305 is amended by adding § 305.57 to read as follows:

§ 305.57 Retroactive modification of child support arrearages.

For the purposes of this part, in order to be found in compliance with the State plan requirement to prohibit the retroactive modification of child support arrearages (45 CFR 302.70(a)(9)), a State must have in effect laws which provide that any payment or installment under any child support order is, on and after the date it is due, a judgment and be using procedures which prohibit retroactive modification of child support arrearages as provided in 45 CFR 303.106 of this chapter.

[FR Doc. 89-9357 Filed 4-18-89; 8:45 a.m.]
BILLING CODE 4150-04-M

Proposed Rules

Federal Register
Vol. 54, No. 74
Wednesday, April 19, 1989

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 89-NM-22-AD]

Airworthiness Directives; Aerospatiale Model ATR42-300 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes a new airworthiness directive (AD), applicable to certain Aerospatiale Model ATR42-300 series airplanes, which would require modification of the fuselage emergency exit frame at shoot bolt and upper stop locations. This proposal is prompted by a fatigue and damage tolerance analysis of the fuselage emergency exit frame, which revealed the need to increase the thickness of the fitting base at the upper stop and shoot bolt locations. This condition, if not corrected, could lead to failure of the emergency exit frame and subsequent rapid decompression.

DATE: Comments must be received no later than June 6, 1989.

ADDRESS: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 89-NM-22-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from Aerospatiale, 316 Route de Bayonne, 31060 Toulouse, Cedex 03, France. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Robert McCracken, Standardization Branch, ANM-113; telephone (206) 431-1979. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 89-NM-22-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

Fatigue and damage tolerance analysis of the fuselage emergency exit frame on Aerospatiale Model ATR42-300 series airplanes has revealed that the thickness of the fitting base at the shoot bolt and upper stop locations is inadequate to prevent cracking. This condition, if not corrected, could lead to failure of the emegency exit frame and subsequent rapid decompression.

Aerospatiale has issued Service Bulletin ATR42-53-0024, Revision 2, dated May 16, 1988, which describes procedures for modification of the fuselage emergency exit frame to increase the thickness of the fitting base from 2 mm to 4.5 mm.

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

Since this condition involves potential fatigue failure of the emergency exit structure, and is likely to exist or develop on airplanes of this model registered in the United States, the FAA is proposing an AD that would require modification of the emergency exit frame in accordance with the service bulletin previously described. Modification would be required prior to the accumulation of 12,000 landings, or within 60 days if airplanes have accumulated 12,000 or more landings.

It is estimated that 33 airplanes of U.S. registry would be affected by this AD, that it would take approximately 40 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. The required modification parts would be provided by the manufacturer at no charge to operators. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $52,800.

The regulations proposed herein would not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities because few, if any, Model ATR42-300 airplanes are operated by small entities. A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

Aerospatiale: Applies to Model ATR42-300 series airplanes, Serial Numbers 003 through 052, certificated in any category. Compliance is required as indicated, unless previously accomplished.

To prevent failure of the emergency exit frame, accomplish the following:

A. Prior to the accumulation of 12,000 landings or within 60 days after the effective date of this AD, whichever occurs later, accomplish modification of the fuselage emergency exit frame in accordance with Aerospatiale Service Bulletin ATR42-53-0024, Revision 2, dated May 16, 1988.

B. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Northwest Mountain Region.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who may add any comments and then send it to the Manager, Standardization Branch, ANM-113.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Aerospatiale, 316 Route de Bayonne, 31060 Toulouse, Cedex 03, France. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

Issued in Seattle, Washington, on April 7, 1989.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89-9291 Filed 4-18-89; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 89-NM-19-AD]

Airworthiness Directives; Boeing Model 727 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes a new airworthiness directive (AD), applicable to Boeing Model 727 series airplanes, which would require inspection for cracks of the main landing gear (MLG) inboard door actuator rib fitting, and rework or replacement, if necessary. This proposal is prompted by a recent left MLG-up landing that resulted from a fractured MLG door actuator rib fitting. This condition, if not corrected, could result in non-extension of the MLG and damage to the airplane because of the wheels-up landing.

DATES: Comments must be received no later than June 5, 1989.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 89-NM-19-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Stanton R. Wood, Airframe Branch, ANM-120S; telephone (206) 431-1924. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington, 98168.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 89-NM-19-AD, 17900 Pacific Highway South, C-68966 Seattle, Washington 98168.

Discussion

There have been several reported incidents of cracked main landing gear (MLG) inboard door actuator rib fittings on Boeing Model 727 series airplanes. In one case, one fitting on the left MLG door failed and resulted in a landing with the left MLG retracted. The cracked fittings occurred on airplanes which had accumulated between 20,000 and 50,000 landings. Cracking has been attributed to stress corrosion. This condition, if not corrected, could result in failure of the MLG to extend.

The FAA has reviewed and approved Boeing Service Bulletin 727-32-0364, dated December 15, 1988, which describes procedures for inspection, rework, and replacement of the MLG inboard door actuator rib fitting.

Since this condition is likely to exist or develop on other airplanes of this same type design, an AD is proposed which would require inspection and rework and, if necessary, repair or replacement of the MLG inboard door actuator rib fitting in accordance with the service bulletin previously described.

There are approximately 1,695 Model 727 series airplanes in the worldwide fleet. It is estimated that 1,172 airplanes of U.S. registry would be affected by this AD, that it would take approximately 4 manhours per airplane to accomplish the required actions, and that the average

labor cost would be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $187,520.

The regulations proposed herein would not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For these reasons, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, would not have a significant economic impact, positive or negative, on a substantial number of small entities because few, if any, Model 727 series airplanes are operated by small entities. A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposesd to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the folloiwng new airworthiness directive:

Boeing: Applies to all Model 727 series airplanes certified in any category. Compliance is required as indicated, unless previously accomplished.

To prevent failure of a main landing gear (MLG) inboard door from operating as a result of cracking in the actuator rib fitting, accomplish the following:

A. Prior to the accumulation of 20,000 landings, or within the next 1,000 landings after the effective date of this AD, whichever occurs later, accomplish the following in accordance with Boeing Service Bulletin 727-32-0364, dated December 15, 1988:

1. Conduct an eddy current or dye penetrant inspection of the MLG inboard door actuator rib fittings listed in figure 3, for cracks, in accordance with that figure of the service bulletin.

2. If no cracks are detected, rework prior to further flight, in accordance with paragraph b. of figure 3 of the service bulletin.

3. If cracks are detected in the MLG inboard door actuator rib fitting, rework or replace with properly reworked or new fitting, prior to further flight, in accordance with paragraph c. of figure 3 of the sevice bulletin.

B. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who may add any comments and then send it to the Manager, Seattle Aircraft Certification Office.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

Issued in Seattle, Washington, on April 6, 1989.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89-9283 Filed 4-18-89; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 89-NM-37-AD]

Airworthiness Directives; CASA Model C-212 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to revise an existing airworthiness directive (AD), applicable to CASA Model C-212 series airplanes, which currently requires incorporation of a revision to the FAA-approved maintenance inspection program that provides for structural inspections of the mechanical flap control system, and replacement, as necessary. That action was prompted by a structural reevaluation of the entire flap control system, which identified certain significant structural components which need to be inspected for damage, including corrosion and cracking, to assure the continued airworthiness of the flap system. This proposal would specify the compliance time for accomplishment of the initial inspection of the wing flap control system. This action is prompted by a further assessment of the wing flap control system inspection intervals, and the need to identify the initial inspection requirement. Corrosion or cracking in components of the wing flap control system, if not detected or corrected, could compromise the structural integrity of the flap system.

DATES: Comments must be received no later than May 15, 1989.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 89-NM-37-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from Contrucciones Aeronauticas, S.A. (CASA), Getafe, Madrid, Spain. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Robert McCracken, Standardization Branch, ANM-113; telephone (206) 431-1979. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed

in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 89-NM-37-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

On December 28, 1988, the FAA issued AD 89-02-08, Amendment 39-6111 (54 FR 1341; January 13, 1989), applicable to CASA Model C-212 series airplanes, which requires incorporation of a revision to the FAA-approved maintenance inspection program that would provide for structural inspections of the mechanical wing flap control system, and repair or replacement, as necessary. That action was prompted by a structural re-evaluation of the entire flap control system, which identified certain significant structural components which need to be inspected for damage, including corrosion and cracking, to assure the continued airworthiness of the flap system. This condition, if not corrected, could compromise the structural integrity of the wing flap control system.

Since issuance of that AD, a further assessment of the wing flap control system inspection intervals has revealed the need to perform the initial inspection when the airplane has accumulated 4,000 landings (or within 6 months after the effective date of this proposed amendment). This initial inspection compliance time was not specified in the existing AD.

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

Since this condition is likely to exist or develop on other airplanes of this same type design registered in the United States, an AD is proposed which would amend AD 89-02-08, to require that the initial supplemental structural inspection of the wing flap control system be accomplished prior to the accumulation of 4,000 landings or within 6 months after the effective date of this amendment, whichever occurs later, in accordance with CASA Document COM. 212-206, Revision 1, dated May 20, 1988. The repetitive inspection interval of 4,000 landings, as required by the existing AD, would remain unchanged. Additionally, the requirement to revise the FAA-approved maintenance inspection program would remain unchanged.

Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511) and have been assigned OMB Control Number 2120-0056.

It is estimated that 61 airplanes of U.S. registry would be affected by this AD, that it would take approximately 11 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $26,840. (This supplemental inspection would be repeated every 4,000 landings at this same cost.)

The regulations proposed herein would not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For these reasons, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities because few, if any, CASA Model C-212 series airplanes are operated by small entities. A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By revising AD 89-02-08, Amendment 39-6111 (54 FR 1341; January 13, 1989), as follows:

CASA: Applies to all CASA Model C-212 series airplanes, certificated in any category. Compliance is required as indicated below, unless previously accomplished.

To ensure continuing structural integrity of the wing flap control system, accomplish the following:

A. Within six months after February 17, 1989 (the effective date of AD 89-02-08, Amendment 39-6111), incorporate a revision into the FAA-approved maintenance inspection program that will provide for inspection of the wing flap control system in accordance with CASA Document COM. 212-206, Revision 1, dated May 20, 1988. The non-destructive inspection techniques set forth in the CASA C-212 non-destructive procedures (27-50-01 through 27-50-05) provide acceptable methods for accomplishing the inspections required by this AD. All inspection results, positive or negative, must be reported to CASA Product Support, in accordance with instructions in the CASA Flap Control System Inspection Document. This Supplemental Structural Inspection (SSI) is to be repeated at intervals not to exceed 4,000 landings.

B. Prior to the accumulation of 4,000 landings, or within six months after the effective date of this amendment, whichever occur later, inspect the wing flap control system in accordance with CASA Document COM. 212-206, Revision 1, dated May 20, 1988.

C. Cracked structure or damaged components detected during the inspections required by paragraphs A. and B., above, must be replaced prior to further flight, in accordance with CASA Document COM. 212-206, Revision 1, dated May 20, 1988.

D. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Northwest Mountain Region.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who may add any comments and then send it to the Manager, Standardization Branch, ANM-113.

E. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of the modifications required by this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Contrucciones Aeronauticas, S.A. (CASA), Getafe, Madrid, Spain. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

Issued in Seattle, Washington, on April 10, 1989.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89-9340 Filed 4-18-89; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 89-NM-33-AD]

Airworthiness Directives; Lockheed Aeronautical Systems Co. Model L-1011-385-1, L-1011-385-1-14, L-1011-385-1-15, and L-1011-385-3 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes a new airworthiness directive (AD), applicable to Lockheed Aeronautical Systems Company Model L-1011-385-1, L-1011-385-1-14, L-1011-385-1-15, and L-1011-3 series airplanes, which would require inspecting the Auxiliary Power Unit (APU) starter ground cable for loose ground stud terminations, and appropriate corrective action, as necessary, to eliminate the APU starter ground cable discrepancies. This proposal is prompted by a report of loose APU starter ground terminals, and deterioration of the grounding bracket due to electrical arcing at the ground studs. This condition, if not corrected, could result in a fire caused by arcing, since an eroded ground stud and a missing wire harness clamp could allow the starter ground cable to fall onto thee APU fuel shutoff values.

DATES: Comments must be received no later than June 1, 1989.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 89-NM-33-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from Lockheed Aeronautical Systems Company, P.O. Box 551, Burbank, California 91520, Attention: Commercial Order Administration, Dept. 65-33, Unit 20, Plant A-1. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South Seattle, Washington, or at 3229 East Spring Street, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Mr. Elvin K. Wheeler, Aerospace Engineer, Systems and Equipment Branch, ANM-132L. FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California 90806-2425; telephone (213) 988-5344.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 89-NM-33-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

The FAA has received a report where one L-1011 operator, experiencing difficulty in starting the APU, discovered that the two APU starter ground terminals, located just aft of the FS 1860 bulkhead and above the APU firewall fuel shut-off values, were loose, and the grounding bracket had deteriorated due to electrical arcing at the ground studs. A partial fleet check conducted by eight L-1011 operators revealed that, of 56 aircraft checked, 23 had some discrepancy in the ground stud/bracket installation. Of those 23, 5 had loose studs with no evidence of arcing and 12 were missing the required bracket mid-span cable clamp. This condition, if not corrected, could result in a fire caused by arcing, since an eroded ground stud and a missing wire harness clamp could allow the starter ground cable to fall onto the APU fuel shutoff valves.

The FAA has reviewed and approved Lockheed TriStar L-1011 Service Bulletin 093-49-062, dated September 19, 1988, which describes the inspection/correction procedures necessary to eliminate the APU starter ground cable discrepancies.

Since this condition is likely to exist or develop on other airplanes of this same type design, an AD is proposed which would require inspection for proper installation of the APU starter ground cable, and correction, if necessary, in accordance with the service bulletin previously described.

There are approximately 241 Model L-1011-385 series airplanes in the worldwide fleet. It is estimated that 116 airplanes of U.S. registry would be affected by this AD, that it would take approximately 4.5 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $20,880.

The regulations proposed herein would not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For these reasons, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities because of the minimal cost of compliance per airplane ($180). A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421, and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

Lockheed Aeronautical Systems Company: Applies to Model L–1011–385–1, L–1011–385–1–14, L–1011–385–1–15, and L–1011–385–3 series airplanes, as listed in Lockheed TriStar L–1011 Service Bulletin 093–49–062, dated September 19, 1988, certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent a fire from arcing due to loose APU starter ground cables falling off the ground studs and onto the APU fuel shutoff valves, accomplish the following:

A. Within 6 months after the effective date of this airworthiness directive (AD), inspect the APU starter ground stud/bracket for proper installation and proper ground stud torque in accordance with the Accomplishment Instructions of Lockheed TriStar Service Bulletin 093–49–062, dated September 19, 1988. Any discrepancies identified must be corrected prior to further flight, in accordance with the service bulletin.

B. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who may add any comments and then send it to the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

C. Special Flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Lockheed Aeronautical Systems Company, P. O. Box 551, Burbank, California 91520, Attention: Commercial Order Administration, Dept. 65–33, Unit 20, Plant A–1. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California.

Issued in Seattle, Washington, on April 4, 1989.

Steven B. Wallace,

Acting Manager, Transport Airplane Directorate, Aircraft certification Service.

[FR Doc. 89–9341 Filed 4–18–89; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 89–ANE–02]

Airworthiness Directives; Pratt & Whitney (PW) JT8D–9, –9a, –11, –15, –15A, –17, –17A, –17R, and –17AR Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would require replacement of the first stage fan blade retaining plates on certain PW JT8D engines. The AD requires replacing the original retaining plates, and the retaining plates which were introduced by PW Service Bulletin (SB) 5739, with a new improved retaining plate. The proposed AD is needed to prevent a first stage fan blade liberation which could result in fire, inflight shutdown, engine cowl release, or airframe damage.

DATES: Comments must be received on or before July 14, 1989.

ADDRESSES: Comments on the proposal may be mailed in duplicate to: Federal Aviation Administration, New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 89–ANE–02, 12 New England Executive Park, Burlington, Massachusetts 01803, or delivered in duplicate to Room 311 at the above address.

Comments delivered must be marked: Docket No. 89–ANE–02.

Comments may be inspected at the New England Region, Office of the Assistant Chief Counsel, Room 311, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except federal holidays.

The applicable alert service bulletin (ASB) may be obtained from Pratt & Whitney, Publication Department, P.O. Box 611, Middletown, Connecticut 06457, or may be examined in the Regional Rules Docket.

FOR FURTHER INFORMATION CONTACT: Thomas Boudreau, Engine Certification Branch, ANE–141, Engine Certification Office, Engine and Propeller Directorate, Aircraft Certification Service, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273–7121.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the FAA before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules docket, at the address given above, for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: Comments to Docket No. 89–ANE–02. The postcard will be date/time stamped and returned to the commenter.

This document proposes to adopt a new AD mandating replacement of the first stage fan blade retaining plate on certain PW JT8D engines. The new retaining plate contains improved blade retention features.

There has been a total of nineteen first stage fan blade liberation events. Thirteen of these events resulted in fire, engine cowl release, or airframe damage. Fifteen of the nineteen blade liberation events occurred with the original retaining plates. However, four events occurred with improved retaining plates which were introduced by PW SB 5739, dated March 5, 1987. Also, there have been seven first stage fan blade liberation events caused by bird ingestion, all occurring on wing mounted engines containing the original retaining plates. Consequently, the risk of a blade liberation event is dependent on the aircraft installation in addition to the retaining plate design.

All nineteen events have occurred on JT8D–9 through JT8D–17AR engines. The

JT8D–1 through JT8D–7B engines incorporate a different retaining plate configuration which has had no history of first stage fan blade liberation.

The FAA has determined that the original first stage fan blade retaining plates for the JT8D–9 through JT8D–17AR engines, and the first stage fan blade retaining plates introduced by PW SB 5739, are inadequate for retaining first stage fan blades in the event of certain failures. An improved retaining plate is now available and should be incorporated into all applicable engines. Since this condition is likely to exist or develop in other engines of the same type design, the proposed AD would require replacement of first stage fan blade retaining plates on certain PW JT8D engines in accordance with PW Alert Service bulletin (ASB) 5841, dated February 15, 1989.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this proposed regulation involves approximately 5175 engines (domestic fleet) at an approximate total cost of four hundred thousand dollars. It has also been determined that few, if any, small entities within the meaning of the Regulatory Flexibility Act will be affected since the proposed rule affects only operators using aircraft in which JT8D–9 through JT8D–17AR engines are installed, none of which are believed to be small entities. Therefore, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

A copy of the draft evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained from the Regional Rules Docket.

List of Subjects in 14 CFR Part 39

Engines, Air transportation, Aircraft, Aviation safety, Incorporation by reference.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration (FAA) proposes to amend Part 39 of the Federal Aviation Regulations (FAR) as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421, and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); and 14 CFR 11.85.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive (AD):

Pratt & Whitney: Applies to Pratt & Whitney (PW) JT8D–9, –9A, –11, –15, –15A, –17, –17A, –17R, and –17AR turbofan engines. Compliance is required as indicated, unless already accomplished.

To prevent fire, inflight shutdown, engine cowl release, or airframe damage associated with a first stage fan blade liberation, remove certain first stage fan blade retaining plates in accordance with the Accomplishment Instructions of PW Alert Service Bulletin (ASB) 5841, dated February 15, 1989, and replace with an improved retaining plate as follows:

(a) Replace retaining plates Part Numbers (P/N) 520451, 616645, and 639616 with retaining plate P/N 803996 at the next stop visit but no later than:

(1) Two years after the effective date of this AD for wing mounted engines.

(2) Three years after the effective date of this AD for fuselage mounted engines.

(b) Replace retaining plates P/N's 760297, 793935, and 802710 with retaining plate P/N 803996 at the next shop visit but no later than four years after the effective date of this AD.

Notes: (1) A shop visit occurs following engine removal where the subsequent engine maintenance entails the following:

(a) Separation of a major engine flange (lettered or numbered), other than flanges mating with major sections of the nacelle or reverser. Separation of flanges purely for purposes of shipment, without subsequent internal maintenance, is not a "shop visit."

(b) Removal of a disk, hub, or spool.

(3) Future FAA approved first stage fan blade retaining plate designs may be used in lieu of the P/N 803996 retaining plate as an alternate method of compliance, as stated below.

(c) Aircraft may be ferried in accordance with the provisions of FAR 21.197 and 21.199 to a base where the AD may be accomplished.

(d) Upon submission of substantiating data by an owner or operator through an FAA Airworthiness Inspector, an alternate method of compliance with the requirements of this AD or adjustments to the compliance times specified in this AD, may be approved by the Manager, Engine Certification Office, ANE–140, Engine and Propeller Directorate, Aircraft Certification Service, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803.

Issued in Burlington, Massachusetts, on April 5, 1989.

Arthur J. Pidgeon,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 89–9292 Filed 4–18–89; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 89–CE–09–AD]

Airworthiness Directives; Beech 200 and 300 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This Notice proposes to adopt a new Airworthiness Directive (AD), applicable to certain Beech 200 and 300 series Airplanes, which would supersede AD 87–17–05R1, Amendment No. 39–5847, and mandate repetitive inspections and repair as required of wing fuel bay upper skin panels. Entry of moisture through the blind fastener rivets in the outer skin of the panels causes corrosion which results in debonding of these panels. The FAA has determined that the repairs and replacement panels specified in AD 87–17–05R1 are inefective in preventing such corrosion. The actions proposed herein will preclude stuctural weakening of these panels due to corrosion.

DATE: Comments must be received on or before June 3, 1989.

ADDRESSES: Beech Service Bulletin No. 2040, Rev. II, dated December 1988, and Beech Service Instructions No. C–12–0094, Rev. II, dated January 1989, applicable to this AD, may be obtained from Beech Aircraft Corporation, Commercial Services, Department 52, P.O. Box 85, Wichita, KS 67201–0085; telephone (316) 681–7111. This information may also be examined at the Rules Docket at the address below. Send comments on the proposal in triplicate to the Federal Aviation Administration, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 89–CE–09–AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

FOR FURTHER INFORMATION CONTACT: Don Campbell, Aerospace Engineer, Airframe Branch, ACE–120W, Wichita

Aircraft Certification Office (ACO), 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946-4409.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received. Comments are specifically invited on the overall regulatory, economic, environmental and energy aspects of the proposed rule. All comments submitted will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons. A report summarizing each FAA public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 89-CE-09-AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Discussion

AD 87-17-05R1, Amendment No. 39-5847, was published in the Federal Register on February 17, 1988 (53 FR 4604). This AD requires repetitive inspections and repair if necessary, of a debond condition of the wing upper skin panels in the area bounded by the fuselage, nacelle, front spar, and rear spar on certain Beech 200 and 300 series airplanes. The area in question is a one piece, all aluminum, bonded honeycomb sandwich, which serves as the fuel bay upper cover, as well as a load carrying structural member. The debonding results when moisture leaks into the honeycomb via blind fasterners (rivets) in the outer face sheet of the panel. The moisture, in turn, causes corrosion to form inside the honeycomb, which attacks the face sheet bonds. Without corrective maintenance, the debonding can progress to a point where safe flight is jeopardized. If no debonding is detected, AD 87-17-05R1 requires sealing of all blind fasterners (rivets) per Service Bulletin No. 2040, Rev. I (or Service Instructions No. C-12-0094, Rev. I, for military airplanes). This involves an external application of sealant. If debonding is detected, the AD allows repairs by Beech Kit No. 101-4032-1S or -3S, after which the inspections continue. As an alternative, the debonded panel is replaced by a new panel P/N 101-120108-603 or -604, after which the inspections are no longer required.

In the 16 months since AD 87-17-05 was issued, it was determined that the present method of sealing is not always effective in keeping moisture out of the honeycomb core, and Beech Kits No. 101-4032-1S and -3S have been discontinued by the manufacturer. During this period, at least seven of the replacement panels, P/N 101-120108-603 or -604, are known to have debonded in service. As a result of these problems, Beech has revised the service information to provide an improved method, Kit No. 101-4048-1S, for sealing the blind rivets, and expanded the inspections to include the new replacement panels.

A new, temporary repair is also described in the revised service bulletin. This repair method may be used for up to one year from the time of modification in cases where immediate panel replacement is not feasible or desirable. However, a panel has been previously rebonded using Kit No. 101-4032-1S or -3S may not be repaired again using Kit No. 101-4048-1S. Partial replacement panels, which may be used in lieu of the complete panels, P/N 101-120108-603 or -604, are also referenced in the revised service information as follows:

Description	Number	Wing
Kit	10-4045-1S	Left
Repair Procedure	SRV.002	Left
Repair Procedure	SRV.018	Right

Regardless of whether a debonded panel is replaced or repaired, the repetitive inspections are necessary.

In view of the above, the FAA has determined that AD87-17-05R1 is no longer adequate and should be superseded.

Since the condition described is likely to exist or develop in other Beech 200 and 300 series airplanes of the same design, the proposed superseding AD would require repetitive inspections and, if necessary, temporary repair or replacement of all wing fuel by upper skin panels in accordance with Beech Service Bulletin No. 2040, Rev. II, dated December 1988, or Beech Service Instructions No. C-12-0094, Rev. II, dated January 1989, as appropriate.

The FAA has determined there are approximately 995 airplanes affected by the proposed AD. The cost of inspecting, sealing and repairing per the proposed AD is estimated to be $416 initially plus $234 annually (averaged over the fleet) per airplane. The total cost is estimated to be $415,000 initially plus $233,000 annually to the private sector. Warranty reimbursement is offered by Beech for a limited time for the cost of rivet sealing (Kit 101-4048-1S) and any repairs or panel replacements needed. The total cost of complying with the proposed AD is less than $100 million, the threshold amount for a significant rule. The cost of compliance with the proposed AD is so small that the expenses of compliance will not be a significant impact on any small entities operating these airplanes.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Therefore, I certify that this action (1) is not a major rule under the provisions of Executive Order 12291, (2) is not a significant rule under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979), and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the public docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "**ADDRESSES**".

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the FAR as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By superseding AD 87-17-05R1, Amendment 39-5847, with the following new AD:

Beech: Applies to Models 200, B200, 200C, B200C, 200CT, B200CT, 200T, B200T, A200, A200C, A200CT and 300 (all serial numbers) airplanes equipped with wing fuel bay upper skin panels made with bonded (honeycomb sandwich) construction, certificated in any category.

Compliance: Required as indicated after the effective date of this AD unless previously accomplished.

To assure the continued structural integrity of the wing fuel bay upper skin panels, accomplish the following:

(a) Within the next calendar month after the effective date of this AD, check the airplane records or inspect the wing fuel bay upper skin panels (hereafter called "skin panels") for possible bonded (honeycomb sandwich) construction. Airplanes in the serial number range of BB-2 thru BB-613 were manufactured with a skin-and-stringer construction and are not affected by this AD unless bonded wing fuel bay upper skin panels were installed after manufacture. If the airplane has bonded skin panels, accomplish the following in accordance with Beech Service Bulletin No. 2040, Rev. II, dated December, 1988 (for civil registered airplanes), or Beech Service Instructions No. C-12-0094, Rev II, dated January, 1989 (for military airplanes), as applicable:

(1) If the skin panels are bonded and have blind rivets as shown in the shaded portions of Fig. 1 in the service bulletin, inspect the skin panels for debonding within the next 150 hours time-in-service (TIS) or 6 calendar months, whichever occurs first.

(i) If the skin panel has been previously repaired, per Beech Kit No. 101-4032-1S or 101-4032-3S,

(A) And there is debonding, prior to further flight remove and replace the skin panel and reinspect for debonding at 18 month intervals thereafter.

(B) And there is no debonding, prior to further flight reseal the blind rivets per instructions in Beech Kit 101-4048-1S and reinspect the skin panel for debonding within 6 calendar months, again within another 12 calendar months, and at 18 calendar month intervals thereafter.

(ii) If the skin panel has not been previously repaired,

(A) And there is debonding, either:

(1) Prior to further flight remove and replace the skin panel and reinspect for debonding at 18 calendar month intervals thereafter, or

(2) Prior to further flight install a temporary repair per Beech Repair Procedure No. SRV.001 which can be used for no longer than 12 calendar months for the time of modification, at which time remove the temporarily repaired panel and replace with a serviceable panel. Reinspect for debonding at 18 calendar month intervals thereafter.

(B) And there is no debonding, prior to further flight reseal the blind rivets and reinspect the skin panel for debonding within 6 calendar months, again within another 12 calendar months, and at 18 calendar month intervals thereafter.

(2) If the skin panels are bonded and do not have blind rivets as shown in the shaded portion of Fig. 1 in the service bulletin, inspect for debonding within the next 600 hours TIS or 18 calendar months, whichever occurs first.

Note 1: The following airplanes were manufactured with bonded skin panels without rivets: Models B200 (above serial number BB-1238), B200C (above serial numbers BL-127), B200 CT (above serial numbers BN-4), B200T (above serial numbers BT-30), 300 (above serial numbers FA-81 and all FF-serial numbers).

(i) If there is debonding, either:

(A) Prior to further flight remove and replace the skin panel and reinspect for debonding at 18 calendar month intervals thereafter, or

(B) Prior to further flight install a temporary repair per Beech Repair Procedure No. SRV.001, which can be used for no longer than 12 calendar months from the time of modification, at which time remove the temporarily repaired panel and replace with a serviceable panel. Reinspect for debonding at 18 calendar month intervals thereafter.

(ii) If there is no debonding, reinspect for debonding at 18 calendar month intervals thereafter.

(3) The following are approved replacement skin panels:

Note 2: These panels are bonded and do not have rivets.

(i) Complete replacement panels are Part Nos. 101-120108-603 (L.H.) and 101-120108-604 (R.H.).

(ii) Kit No. 101-4045 and Repair Procedure No. SRV.002 each provide a partial replacement panel (L.H. only).

(iii) Repair Procedure No. SRV.018 provides a partial replacement panel (R.H. only).

(b) Airplanes may be flown in accordance with FAR 21.197 to a location where the AD may be accomplished.

(c) The repetitive inspection intervals required by this AD may be adjusted up to 10 percent of the specified interval so as to coincide with other scheduled maintenance.

(d) An equivalent means of compliance with this AD may be used if approved by the Manager, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946-4400.

All persons affected by this directive may obtain copies of the documents referred to herein upon request to Beech Aircraft Corporation, Commercial Service, Department 52, Wichita, Kansas 67201-0085; or may examine these documents at the FAA, Office of the Assistant Chief Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

This amendment supersedes AD 87-17-05R1, Amendment 39-5847.

Issued in Kansas City, Missouri, on April 6, 1989.

Barry D. Clements,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89-9290 Filed 4-18-89; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 88-ACE-19]

Proposed Revocation of Transition Area; Ida Grove, IA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This Notice proposes to revoke the transition area at Ida Grove, Iowa. The nondirectional radio beacon (NDB) at the Ida Grove, Iowa, Airport has been removed, thereby canceling the instrument approach procedure based on this navigational aid. Accordingly, the transition area is no longer required.

DATES: Comments must be received on or before May 31, 1989.

ADDRESSES: Send comments on the proposal to: Federal Aviation Administration, Manager, Traffic Management and Airspace Branch, Air Traffic Division, ACE-540, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 426-3408.

The official docket may be examined at the Office of the Assistant Chief Counsel, Central Region, Federal Aviation Administration, Room 1558, 601 East 12th Street, Kansas City, Missouri.

An informal docket may be examined at the Offices of the Manager, Traffic Management and Airspace Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Lewis G. Earp, Airspace Specialist, Traffic Management and Airspace Branch, Air Traffic Division, ACE-540, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106. Telephone (816) 426-3408.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number, and be submitted in triplicate to the Traffic Management and Airspace Branch, Air Traffic Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106. All communications received on or before

the closing date for comments will be considered before action is taken on the proposed amendment. The proposal contained in this Notice may be changed in light of the comments received. All comments received will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Traffic Management and Airspace Branch, 601 East 12th Street, Kansas City, Missouri 64106, or by calling (816) 426–3408.

Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for further NPRMs should also request a copy of Advisory Circular No. 11–2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to Subpart G, § 71.181, of the Federal Aviation Regulations (14 CFR Part 71) to revoke the transition area at Ida Grove, Iowa. The NDB at the Ida Grove, Iowa, Municipal Airport has been removed. That action, in turn, canceled the instrument approach procedure predicated on this navigational aid. Accordingly, the Ida Grove, Iowa, transition area is no longer required and should be revoked.

Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6E, January 3, 1989.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is proposed to be amended as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

§ 71.181 [Amended]

2. By amending § 71.181 as follows:

Ida Grove, IA [Removed]

Issued in Kansas City, Missouri, on March 27, 1989.

Clarence E. Newbern,

Manager, Air Traffic Division.

[FR Doc. 89–9284 Filed 4–18–89; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 88–ACE–20]

Proposed Revocation of Transitional Area; Waukon, IA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This Notice proposes to revoke the transition area at Waukon, Iowa. The nondirectional radio beacon (NDB) at the Waukon, Iowa, Municipal Airport has been removed, thereby canceling the instrument approach procedure based on this navigational aid. Accordingly, the transition area is no longer required.

DATES: Comments must be received on or before May 31, 1989.

ADDRESSES: Send comments on the proposal to: Federal Aviation Administration, Manager, Traffic Management and Airspace Branch, Air Traffic Division, ACE–540, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 426–3408.

The official docket may be examined at the Office of the Assistant Chief Counsel, Central Region, Federal Aviation Administration, Room 1558, 601 East 12th Street, Kansas City, Missouri.

An informal docket may be examined at the Office of the Manager, Traffic Management and Airspace Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Lewis G. Earp, Airspace Specialist, Traffic Management and Airspace Branch, Air Traffic Division, ACE–540, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 426–3408.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number, and be submitted in duplicate to the Traffic Management and Airspace Branch, Air Traffic Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106. All communications received on or before the closing date for comments will be considered before action is taken on the proposed amendment. The proposal contained in this Notice may be changed in light of the comments received. All comments received will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Traffic Management and Airspace Branch, 601 East 12th Street, Kansas City, Missouri 64106, or by calling (816) 426–3408.

Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for further NPRMs should also request a copy of Advisory Circular 11–2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to Subpart G, § 71.181 of the Federal Aviation Regulations (14 CFR Part 71) to revoke the transition area at Waukon, Iowa. The NDB at the Waukon, Iowa, Municipal Airport has been removed. That action, in turn, canceled the instrument approach procedure predicated on this navigational aid. Accordingly, the Waukon transition area is no longer required and should be revoked.

Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6E, January 3, 1989.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3)

does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, Part 71 of the FAR (14 CFR Part 71) is proposed to be amended as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.181 [Amended]

2. By amending § 71.181 as follows:

Waukon, IA [Removed]

Issued in Kansas City, Missouri, on March 27, 1989.

Clarence E. Newbern,

Manager, Air Traffic Division.

[FR Doc. 89-9282 Filed 4-18-89; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 89-AWP-8]

Proposed Revision of Los Alamitos, CA, Control Zone

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to revise the Los Alamitos control zone boundary where it adjoins the Long Beach, CA, control zone. This notice also proposes to eliminates the delegation of Los Alamitos control zone to Long Beach during the hours of non-activation of Los Alamitos, and release the control zone to public use when Los Alamitos is not active.

DATES: Comments must be received on or before May 31, 1989.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Attn: Manager, Airspace and Procedures Branch, AWP-530, Docket No. 89-AWP-8, Air Traffic Division, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009.

The official docket may be examined in the Office of the Regional Counsel, Western-Pacific Region, Federal Aviation Administration, Room 6W14, 15000 Aviation Boulevard, Lawndale, California.

An informal docket may also be examined during normal business hours at the Office of the Manager, Airspace and Procedures Branch, Air Traffic Division at the above address.

FOR FURTHER INFORMATION CONTACT: Daniel K. Martin, Airspace and Procedures Specialist, Airspace and Procedures Branch, AWP-530, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261, telephone (213) 297-0166.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with the comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 89-AWP-8." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Airspace and Procedures Branch, Air Traffic Division, at 15000 Aviation Boulevard, Lawndale, California 90261, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Airspace and Procedures Branch, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to revise the boundary of the Los Alamitos control zone where it adjoins the Long Beach, CA, control zone. This notice also proposes to change the delegation of the control zone to Long Beach during non-activation hours. This proposal would release the control zone airspace to public use during hours of non-activation. Section 71.171 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6E dated January 3, 1989.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Control zones

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

§ 71.171 [Amended]

2. § 71.171 is amended as follows:

Los Alamitos AAF, CA [Revised]

Within a 5-mile radius of Los Alamitos Armed Forces Reserve Center (lat. 33°47'30"N., long. 118°02'50"W). Excluding that portion within the Long Beach, CA, control zone, and excluding the portion within a 1-mile radius of Meadowlark Airport (lat. 33°43'08"N., long. 118°02'13"W). This control zone is effective from 0700 to 2200 hours local time daily, or during specific times and dates established in advance by a Notice to Airmen which will be continuously published in the Airport/Facility Directory.

Issued in Los Angeles, California, on March 31, 1989

Merle D. Clure,

Assistant Manager, Air Traffic Division Western-Pacific Region.

[FR Doc. 89–9288 Filed 4–18–89; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Docket No. 89–ANM–6]

Proposed Amendment, Miles City Control Zone, Miles City, MT

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend the Miles City Control Zone, Miles City, Montana, from full-time to part-time. A reduction in personnel staffing of the Miles City Flight Service Station has resulted in weather observations not being available 24-hours a day. This action will bring publications up-to-date giving continuous accurate information to the aviation public.

DATES: Comments must be received on or before June 6, 1989.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace & System Management Branch, ANM–530, Federal Aviation Administration, Docket No. 89–ANM–6, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

The official docket may be examined at the same address. An informal docket may also be examined during normal business hours at the address list above.

FOR FURTHER INFORMATION CONTACT: Art Corwin, ANM–537, Federal Aviation Administration, Docket No. 89–ANM–6, 17900 Pacific Higway South, C–68966, Seattle, Washington 98168, Telephone: (206) 431–2576.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 89–ANM–6." The postcard will be date/time stamped and returned to the Commenter. All communications received before the specified closing date for comments will be considered before taking any action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination at the address listed above both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Airspace & System Management Branch, 17900 Pacific Highway South, C–68966, Seattle, Washington, 98168. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular 11–2A which describes the application procedure.

The Proposal

The FAA proposes an amendment to § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to amend the Miles City Control Zone, Miles City, Montana, from full time to part time. A reduction in personnel staffing of the Miles City Flight Service Station has resulted in weather observations not being available 24-hours a day, and therefore, full time control zone services will not be available. The amendment, if adopted, will allow for changes in the hours of effectiveness by issuances of Notices to Airmen when minor variations in time of designation are anticipated.

Section 71.171 of Part 71 of the Federal Aviation Regulations was republished in Handbook 74000.6E dated January 3, 1989.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Polices and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Control zones

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

§ 71.171 [Amended]

2. Section 71.171 is amended as follows:

Miles City Montana Control Zone [Amended]

Add "The Control Zone shall be effective during the specified dates and

times established in advance by a Notice to Airmen. The effective date and time will therefore be continuously published in the Airport/Facility Directory."

Temple H. Johnson, Jr.,

Manager, Air Traffic Division, Northwest Mountain Region.

[FR Doc. 89-9339 Filed 4-18-89; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 89-ACE-01]

Proposed Alteration of Transition Area; Sheldon, IA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This Notice proposes to alter the 700-foot transition area at Sheldon, Iowa, to provide additional controlled airspace for aircraft executing a new instrument approach procedure to Runway 33 at the Sheldon, Iowa, Municipal Airport utilizing the Sheldon VOR/DME.

DATES: Comments must be received on or before May 31, 1989.

ADDRESSES: Send comments on the proposal to: Federal Aviation Administration, Manager, Traffic Management and Airspace Branch, Air Traffic Division, ACE-540, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 426-3408.

The official docket may be examined at the Office of the Assistance Chief Counsel, Central Region, Federal Aviation Administration, Room 1558, 601 East 12th Street, Kansas City, Missouri.

An informal docket may be examined at the Office of the Manager, Traffic Management and Airspace Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Lewis G. Earp, Airspace Specialist, Traffic Management and Airspace Branch, Air Traffic Division, ACE-540, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 426-3408.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number, and be submitted in triplicate to he Traiffic Management and Airspace Branch, Air Traffic Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106. All communications received on or before the closing date for comments will be considered before action is taken on the proposed amendment. The proposal contained in this Notice may be changed in light of the comments received. All comments received will be available both before and after and closing date for comments in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Traffic Management and Airspace Branch, 601 East 12th Street, Kansas City, Missouri 64106, or by calling (816) 426-3408.

Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for further NPRMS should also request a copy of Advisory Circular No. 11-2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to Subpart G, § 71.181 of the Federal Aviation Regulations (14 CFR Part 71) to alter the 700-foot transition area at Sheldon, Iowa. To enhance airport usage, Runway 33 at the Sheldon, Iowa, Municipal Airport requires additional controlled airspace for aircraft executing a new instrument approach procedure utilizing the Sheldon VOR/DME (DDL). The establishment of this new instrument approach procedure, based on this approach aid, would entail alteration of the transition areas at Sheldon, Iowa, at and above 700 feet above ground level within which aircraft are provided air traffic control service. The intended effect of this action is to ensure segregation of aircraft using the approach procedure under instrument flight rules (IFR) from other aircraft operating under visual flight rules (VFR).

Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6E, January 3, 1989.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is routine metter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend Part 71 of the Federal Aviation Regulations, (14 CFR Part 71) as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

Sheldon, Iowa [Revised]

That airspace extending upward from 700 feet above the surface within a 5 mile radius of the Sheldon Municipal Airport (Lat. 43°12'37" N., Long. 96°50'04" W.); and within 3 miles each side of the 165° bearing from the airport extending from the 5 mile radius to 8 miles southeast of the airport; and within 3 miles each side of the 160° bearing from the airport extending from the 5 mile radius to 8.5 miles southeast of the airport.

Issued in Kansas City, Missouri, on March 27, 1989.

Clarance E. Newbern,

Manager, Air Traffic Division.

[FR Doc. 89-9280 Filed 4-18-89; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 89-ACE-02]

Proposed Designation of Transition Area; Minden, NE

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This Notice proposes to designate a 700-foot transition area at Minden, Nebraska, to provide controlled airspace for aircraft executing a new instrument approach procedure to the Pioneer Village Field, Minden, Nebraska, utilizing the Kearney VOR as

a navigational aid. This proposed action will change the airport status for VFR to IFR.

DATES: Comments must be received on or before May 31, 1989.

ADDRESSES: Send comments on the proposal to: Federal Aviation Administration, Manager, Traffic Management and Airspace Branch, Air Traffic Division, ACE–540, 601 East 12th Street, Kansas City, Missouri 64106. Telephone (816) 426–3408.

The official docket may be examined at the Office of the Assistant Chief Counsel, Central Region, Federal Aviation Administration, Room 1558, 601 East 12th Street, Kansas City, Missouri.

An informal docket may be examined at the Office of the Manager, Traffic Management and Airspace Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Dale L. Carnine, Airspace Specialist, Traffic Management and Airspace Branch, Air Traffic Division, ACE–540, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 426–3408.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number, and be submitted in triplicate to the Traffic Management and Airspace Branch, Air Traffic Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106. All communications received on or before the closing date for comments will be considered before action on the proposed amendment. The proposal contained in this Notice may be changed in light of the comments received. All comments received will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Traffic Management and Airspace Branch, 601 East 12th Street, Kansas City, Missouri 64106, or by calling (816) 426–3408.

Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for further NPRMS should also request a copy of Advisory Circular No. 11–2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to Subpart G, § 71.181, of the Federal Aviation Regulations (14 CFR Part 71) to designate a 700 foot transition area at Minden, Nebraska. To enhance airport usage, a new instrument approach procedure is being developed for the Pioneer Village Field, Minden, Nebraska, utilizing the Kearney VOR as a navigational aid. This navigational aid will offer new navigational guidance for aircraft utilizing the airport. The establishment of this new instrument approach procedure based on this navigational aid would entail the designation of a transition area at Minden, Nebraska, at the above 700-feet above ground level within which aircraft are provided air traffic control service. Transition areas are designed to contain IFR operations in controlled airspace during times of terminal operation, and while aircraft transit between terminal and enroute environments. The intended effect of this action is to ensure segregation of aircraft using the approach procedure under instrument flight rules (IFR) from other aircraft operating under visual flight rules (VFR). This action would also change the airport status from VFR to IFR.

Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6E, January 3, 1989.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter than will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR 71

Aviation safety, Transition areas.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983; 14 CFR 11.69.

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

Pioneer Village Field, Minden, Nebraska [New]

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Pioneer Village Field (Lat. 40°30'47"N., Long. 98°56'42"W.) and within 3.75 miles each side of the 166° bearing from the Pioneer Village Field extending from the 5-mile radius to 11 miles southeast of the airport, excluding that portion which lies in the Kearney, Nebraska, transition area.

Issued in Kansas City, Missouri, on March 27, 1989.

Clearance E. Newbern,

Manager, Air Traffic Division.

[FR Doc. 89–9281 Filed 4–18–89; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 601

Conference and Practice Requirements

AGENCY: Internal Revenue Service, Treasury.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: This notice solicits written comments from the public with respect to the Conference and Practice Requirements contained in §§ 601.501 through 601.509 of Title 26 of the Code of Federal Regulations, as well as powers of attorney and tax information authorizations.

DATE: Written comments should be delivered or mailed by June 16, 1989.

ADDRESS: Send comments to: Office of Director of Practice, Internal Revenue Service, Attn: HR:DP (Room 1413 ARFB), 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Mr. D. LaMar Whitman of the Office of Director of Practice, Internal Revenue Service, at 202–535–6787 (not a toll-free number).

SUPPLEMENTARY INFORMATION: The Internal Revenue Service is considering the revision of the Internal Revenue Service Conference and Practice Requirements set forth in 26 CFR 601.501 through 601.509, as well as those forms and instructions (including Forms 2848 and 2848–D and their instructions) which concern powers of attorney required for representation of taxpayers before the Internal Revenue Service and tax information authorizations required for the appointee of a taxpayer to receive or inspect confidential information in a specified tax matter. This consideration is being undertaken in order to simplify and clarify the procedures and requirements involving representation of taxpayers before the Internal Revenue Service.

Interested members of the public are invited to submit comments on all aspects of the Conference and Practice Requirements (26 CFR 601.501 through 601.509), as well as those forms and instructions (including Forms 2848 and 2848–D and their instructions) that concern powers of attorney or tax information authorizations.

Leslie S. Shapiro,

Director of Practice.

Dated: April 11, 1989.

[FR Doc. 89–9404 Filed 4–18–89; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD1 89–012]

Freeport Grand Prix, Long Beach, NY

AGENCY: Coast Guard, DOT.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Coast Guard is considering a proposal that would establish permanent special local regulations for the Freeport Grand Prix. The Freeport Grand Prix is a high performance powerboat race held each year on the coastal Atlantic waters south of Long Beach, Long Island, New York. The event is sponsored by Liberty Marine of Freeport, NY. The potential hazards to participants, spectators and/or transiting vessels are such that, each year, in the interest of safety of life on the navigable waters of the United States, the Coast Guard district commander has issued special local regulations governing the conduct of the regatta. By adopting permanent regulations, the Coast Guard will continue to provide the same level of public safety at reduced administrative cost. Public notice of the exact dates of the regatta will be published each year in a **Federal Register** Notice and in the Coast Guard Local Notice to Mariners.

DATES: Comments must be received on or before June 5, 1989. These regulations would be effective from 11:00 a.m. to 3:00 p.m. on Aug. 5, 1989.

COMMENTS: Comments should be mailed to Commander (b), First Coast Guard District, Captain John Foster Williams Coast Guard Building, 408 Atlantic Avenue, Boston, MA 02210–2209. The comments and other material referenced in this notice will be available for inspection and copying in Room 428 at the same address. Normal office hours are between the hours of 7:30 a.m. and 4:00 p.m., Monday through Friday, except holidays. Comments may also be hand delivered.

FOR FURTHER INFORMATION CONTACT: Captain Ronald L. Blake, (617) 223–8310.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rulemaking by submitting written views, data or arguments. Persons submitting comments should include their names and addresses, identify this notice (CGD1 89–012) and the specific section of the proposal to which their comments apply, and give reasons for each comment.

The regulations may be changed in light of comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentation will aid the rulemaking process. The receipt of comments will be acknowledged if a stamped self-addressed postcard or envelope is enclosed.

Drafting Information

The drafters of this notice are LT L. Brown, project officer, First Coast Guard District Boating Safety Division, and LT J.B. Gately, project attorney, First Coast Guard District Legal Division.

Discussion of Regulations

The Freeport Grand Prix is a high performance Indy 500 type powerboat race around an eight (8) mile rectangular course situated approximately one and one quarter (1¼) miles south of Long Beach, Long Island, New York. There will be up to 50 vessels participating. The sponsoring organization will provide eight to 12 patrol boats along with turning and finishing mark boats. The regulation will close a portion of the coastal Atlantic waters south of Long Beach, Long Island, New York to all traffic except law enforcement vessels, regatta participants, and official regatta patrol vessels. No vessels other than race participants and patrol craft will be allowed to enter the regulated area which is described below. The regulated area and immediately adjacent waters will be patrolled by several Coast Guard and Coast Guard Auxiliary vessels which will be assisted by local law enforcement authorities and the sponsor provided patrol boast.

Economic Assessment and Certification

These proposed regulations are considered to be nonmajor under Executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary. The event will draw a number of spectators and participants into the area which will aid the local economy. The primary commercial waterway, the Ambrose Channel, lies over three miles to the south of the regulated area and no adverse impact on commercial traffic is anticipated. Since the impact of this proposal is expected to be minimal, the Coast Guard certifies that, if adopted, it will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

Regulations

In consideration of the foregoing, the Coast Guard proposes to amend Part 100 of Title 33, Code of Federal Regulations, as follows:

PART 100—[AMENDED]

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. A new section 100.106 is added to read as follows:

§ 100.106 Freeport Grand Prix, Long Beach, New York

(a) *Regulated area.* The regulated area is a trapezoidal area on the coastal Atlantic waters of Long Island to the south of Long Beach, New York. The regulated area is one and one quarter (1¼) miles south of Long Beach and three and one quarter (3¼) miles north of the northern boundary of Ambrose

Channel and is specifically bounded as follows:

(1) Northeast Corner: approximately one and one quarter miles southwest of Jones Inlet breakwater at coordinates 40–33–42 North; 073–35–42 West.

(2) Southeast Corner: southwest of Jones Inlet Approach Buoy (R "2"; Light List Number 685) at coordinates 40–31–45 North; 073–36–19 West.

(3) Southwest Corner: east of East Rockaway Approach Buoy (R "4"; Light List Number 690) at coordinates 40–31–31 North; 073–42–21 West.

(4) Northwest Corner: 40–33–30 North; 073–40–57 West.

(b) *Special local regulations.* Vessels not participating in, or operating as a safety/rescue patrol shall:

(1) Not operate within the regulated area.

(2) Immediately follow any specific instructions given by Coast Guard patrol craft.

(3) Exercise extreme caution when operating near the regulated area.

(c) *Effective Dates.* These regulations are effective at 11:00 a.m. on August 5, 1989 and terminate at 3:00 p.m. on August 5, 1989 and will be in effect each year thereafter during the same time period on the first or second Sunday of August as published in a **Federal Register** Notice and the Coast Guard Local Notice to Mariners.

Dated: April 11, 1989.

R.I. Rybacki,

Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.

[FR Doc. 89–9328 Filed 4–18–89; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 3

RIN 2900–AD19

Definition of Fraud

AGENCY: Department of Veterans Affairs.

ACTION: Proposed regulations.

SUMMARY: The Department of Veterans Affairs (VA) is proposing to amend its adjudication regulations concerning the definition of fraud. The amendment is necessary as the current definition of fraud, mandated by law, pertains exclusively to forfeiture. The effect of this amendment will be to establish a definition of fraud for all adjudication applications other than forfeiture.

DATES: Comments must be received on or before May 19, 1989. All comments will be available for public inspection until May 30, 1989. It is proposed to make these amendments effective 30 days following the date of final publication.

ADDRESSES: Interested persons are invested to submit written comments, suggestions, or objections regarding these regulations to the Secretary of Veteran Affairs (271A), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington DC 20420. All written comments received will be available for public inspection only in room 132 at the above address only between the hours of 8:00 a.m. and 4:30 p.m. Monday through Friday (except holidays) until May 30, 1989.

FOR FURTHER INFORMATION CONTACT: Robert M. White, Chief, Regulations Staff, Compensation and Pension Service (211B), Veterans Benefits Administration, (202) 233–3005.

SUPPLEMENTARY INFORMATION: On pages 41644–46 of the **Federal Register** of November 18, 1986, the VA published proposed rules on the definition of fraud. Proposed changes to forfeiture regulations were included. Interested persons were given until December 17, 1986, to submit comments on the proposed rules. Two comments were received on the proposed definition of fraud. As no comments were received on the proposed changes to the forfeiture regulations, they were republished separately as final rules.

One commenter stated that the proposed rule will make it easier to prosecute those who blatantly provide false information to receive benefits for which they are not eligible. However, those who inadvertently fail to comply with required notification procedures, either through ignorance or an innocent misunderstanding of the rules, must be protected from potential accusations of fraud to the fullest extent possible.

The other commenter correctly pointed out that the proof needed to show fraud for the purpose of forefeiture (mandated by law) is less than that needed to prove common-law fraud. Proof of intent to defraud is an element of common-law fraud but no such intent must be proven in order to forfeit for fraud. The VA General Counsel has held that with the exception of forfeiture for fraud, it would be in appropriate to define fraud for the purposes of 38 CFR Part 3 other than with reference to its common-law meaning.

The other commenter also stated that the effective date provisions of 38 CFR 3.500(b) as to reduction or discontinuance of benefits were confusing as to whether or not they pertained to fraud. We disagree. Section 3.500(b)(1) pertains to the effective date of reduction or discontinuance of an erroneous award based on an act of commission or omission by a payee or with the payee's knowledge. This rule would apply whether or not the act of commission or omission is determined to be an act of fraud for other than forfeiture.

Both commenters stated the proposed rule should be in harmony with, not in conflict with, the regulations promulgating the Program Fraud Civil Remedies Act. This is not necessary as intent is specifically excluded as a requirement or criterion under the Program Fraud Civil Remedies Act.

The proposed changes are based on an opinion of the VA General Counsel, Op. G. C. 4–85. In that opinion, the General Consel, citing the rules of general case law, held that the failure of a claimant to disclose could amount to fraud and that such is an adjudicative determination. In making the adjudicative determination that failure to disclose is an act of fraud, the burden of proof rests with the VA.

As this constitutes a major change from the initial proposed definition of fraud, we are again publishing a proposed rule. This proposal defines "fraud" as used in 38 U.S.C. 103, 110, and 359.

The Secretary hereby certifies that these proposed regulatory amendments will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. The reason for this certification is that these amendments would not directly affect any small entities. Only VA beneficiaries could be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), these proposed amendments are exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

In accordance with Executive Order 12291, Federal Regulation, the Secretary has determined that these proposed regulatory amendments are non-major for the following reasons:

(1) They will not have an annual effect on the economy of $100 or more.

(2) They will not cause a major increase in costs or prices.

(3) They will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

(The Catalog of Federal Domestic Assistance Program numbers are 64.100 through 64.110.)

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Handicapped, Health care, Pensions, Veterans.

Approved: March 31, 1989.

Edward J. Derwinski,

Secretary.

38 CFR, Part 3, Adjudication, is proposed to be amended to read:

PART 3—[AMENDED]

1. In § 3.1(g)(4) remove the citation at the end which reads "(Pub. L. 89-670)".

2. In § 3.1, new paragraph (aa) is added and the cross-references are revised to read as follows:

§ 3.1 Definitions.

* * * * *

(aa) "Fraud":

(1) As used in 38 U.S.C. 103 and implementing regulations, fraud means an intentional misrepresentation of fact, or the intentional failure to disclose pertinent facts, for the purpose of obtaining, or assisting an individual to obtain an annulment or divorce, with knowledge that the misrepresenation or fialure to disclose may result in the erroneous granting of an annulment or divorce; and

(Authority: 38 U.S.C. 210(c))

(2) As used in 38 U.S.C. 110 and 359 and implementing regulations, fraud means an intentional misrepresentation of fact, or the intentional failure to disclose pertinent facts, for the purpose of obtaining or retaining, or assisting an individual to obtain or retain, eligibility for Department of Veterans Affairs benefits, with knowledge that the misrepresentation or failure to disclose may result in the erroneous award or retention of such benefits.

(Authority: 38 U.S.C. 210(c))

Cross-References: Pension. See § 3.3. Compensation. See § 3.4. Dependency and indemnity compensation. See § 3.5. Preservation of disability ratings. See § 3.951. Service-connection. See § 3.957.

[FR Doc. 89-9344 Field 4-18-89; 8:45 am]

BILLING CODE 8320-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

Federal Motor Vehicle Safety Standards; Denial of Petition for Rulemaking

AGENCY: National Highway Traffic Safety Administration (NHISA), DOT.

ACTION: Denial of petition for rulemaking.

SUMMARY: This notice denies a petition for rulemaking by the Motor Vehicle Manufacturers Association (MVMA), asking this agency to amend Standard No. 208, *Occupant Crash Protection.* Standard No. 208 currently requires that all vertically adjustable seats be at the lowest vertical adjustment position when a vehicle is tested for compliance with the standard. MVMA asked that this provision be amended to specify that vertically adjustable seats be set at the manufacturer's "nominal design position." According to the MVMA petition, such seat positioning would be similar to the existing adjustment provisions for adjustable seat backs, would be more representative of likely vertical seat positioning by drivers operating the cars on the public roads, and would eliminate the potential burden of duplicative testing for manufacturers. The assertion of duplicative testing was based on the need for manufacturers to test both models of a vehicle, if the vehicle were offered with some models equipped with vertically adjustable seats and other models were equipped with seats that were not vertically adjustable and were positioned at some vertical height other than the lowest adjustment position for vertically adjustable seats.

NHTSA has decided to deny this petition. The procedures for positioning vertically adjustable seats for Standard No. 208 compliance testing have been in effect since 1973. Those procedures are objective and simple to administer during compliance testing. The agency would consider changing those procedures if there were some compelling reason to do so. However, the available information indicates that neither the agency nor any vehicle manufacturer has ever conducted the duplicative testing alleged in the MVMA petition, nor is it likely that such duplicative testing will be conducted in the future. Further, the available information indicates that the currently specified positioning procedures are representative of the seat positioning chosen by many drivers operating their cars on the public roads. Given this information, there appears to be no reason to consider changing the long-established seat positioning procedures. Accordingly, the MVMA petition is denied.

FOR FURTHER INFORMATION CONTACT: Dr. Richard Strombotne, Chief, Crashworthiness Division, NRM-12, NHTSA, 400 Seventh Street, SW., Washington, DC 20590 (202-366-2264).

SUPPLEMENTARY INFORMATION: Standard No. 208, *Occupant Crash Protection* (49 CFR 571.208) specifies the test conditions for the frontal, lateral, and rollover tests that are conducted by this agency to determine whether a vehicle complies with the injury criteria set forth in the standard. Section S8.1.2 of Standard No. 208 provides that seats that are separately adjustable in a vertical direction shall be tested at the lowest vertically adjustable position. The purpose of this provision is to ensure uniformity in positioning vertically-adjustable seats for Standard No. 208 compliance testing.

This provision had its genesis in a November 3, 1970 final rule (35 FR 16297) that established the first automatic restraint requirements in Standard No. 208. Ever since the July 1, 1973 effective date of that rule, Standard No. 208 has included a provision that vertically adjustable seats shall be at the lowest position for all compliance testing. This provision reflects the agency's belief that seat adjustment position may affect test results, thereby introducing needless test variability if a single adjustment position were not specified in the standard.

MVMA filed a petition for rulemaking with this agency, asking that section S8.1.2 be amended to provide that seats with any adjustable features, such as vertically adjustable power seats or seats with adjustable lumbar supports be set at the "nominal design riding position" before the car is subjected to a crash test in accordance with Standard No. 208. The "nominal design riding position" would be specified by the vehicle manufacturer and provided to NHTSA before compliance testing of the vehicle.

According to MVMA's petition, this requested change would be consistent with the requirement already in section S8.1.3 of Standard No. 208. That section specifies that reclining seat backs shall be placed at "the manufacturer's nominal design riding position." A description of this position is provided to the agency by the manufacturer prior to any compliance testing. Additionally, MVMA's petition claimed that positioning the seats according to the manufacturer's specifications would eliminate the potential for duplicative testing of the same vehicle. According to the petition, NHTSA would have to conduct two compliance tests of a vehicle if the vehicle were offered in some models with vertically adjustable seats an din other models with seats that were not vertically adjustable and if the non-adjustable seats were set at a height that was different than the lowest

vertically adjustable position of the vertically adjustable seats. Finally, the MVMA petition argued that testing vertically adjustable seats at their "nominal design riding position" would be more representative of the vertical seat adjustment positions typically selected by drivers using their cars on the public roads.

Ordinarily, the agency would have performed its own analysis of the issues raised by the MVMA petition and published a grant or denial of the petition after completing that analysis. However, there were exceptional circumstances in this case that made it appropriate to allow the public an opportunity to comment on MVMA's petition before the agency made its decision on the petition. In response to the rulemaking notice proposing to incorporate the Hybrid III test dummy into Part 572 (50 FR 14602; April 12, 1985), Ford stated that it was unaware of any evidence showing that there is a safety difference between seats that are not vertically adjustable and those that are. Because Ford believed the vertical seat adjustment position had not been shown to affect safety, it stated that its certifications of vehicles that have some models with seats that are vertically adjustable and other models without vertically adjustable seats are based solely on the vertical position of the seats that are not adjustable.

NHTSA responded as follows to these comments in the preamble to the final rule adopting the Hybrid III test dummy:

The agency recognizes that the seat adjustment issue raised by Ford may lead to test variability. However, the agency does not have any data on the effect of Ford's suggested solution on the design of other manufacturer's power seats. The agency will solicit comments on Ford's proposal in the NPRM addressing additional Hybrid III injury criteria. 51 FR 26688, at 26698; July 25, 1986.

At the time the agency made this commitment to allow the public to comment on the vertical seat adjustment issue in Standard No. 208 testing, NHTSA believed that it would publish the NPRM addressing additional Hybrid III injury criteria very soon. However, it now appears that such a rulemaking notice will not be undertaken in the near future. To honor its previous commitment to allow the public to comment on the vertical seat adjustment issue, NHTSA decided to seek comments on the MVMA petition before making a final decision on the merits of that petition.

A notice requesting comments on the MVMA petition was published on May 2, 1988 (53 FR 15576). This notice asked the public for comments on the merits of the MVMA petition and asked for specific information on two points:

1. Whether the current vertical seat positioning procedures actually present a burden for manufacturers in their certification testing, and/or whether those procedures are otherwise incompatible with current seating system designs; and

2. Whether the alternative vertical seat positioning procedures proposed by MVMA would not present substantial practical problems and would not lessen the safety protection afforded to vehicle occupants.

The agency received six responses to this request for comments. All of the commenters were vehicle manufacturers and all supported the change requested in the MVMA petition. Chrysler commented that it had no data showing a testing burden as a result of the existing vertical seat positioning procedures, but alleged that such a problem might arise in the future if it introduced a vertical seat adjuster with a wider range of positions. Chrysler also suggested that requiring testing to be conducted with vertically-adjustable seats positioned at the manufacturer's "nominal design riding position" would make Standard No. 208 compliance testing more representative of the seat positioning when the vehicles are in use on the public roads. The comments filed by General Motors and Mercedes Benz were substantially similar to Chrysler's comments. BMW commented that the requested change would make vertical seat positioning more representative of real-world seat positioning.

Volkswagen provided some sled test data showing that dummies positioned in the lowest seating position experienced slightly higher levels of injury producing forces than dummies positioned in higher seating positions. However, Volkswagen argued that these higher force levels do not reflect any real world safety difference, since 50th percentile male drivers are unlikely to sit at the lowest seating position. Volkswagen stated that it supported the MVMA petition, in order to make Standard No. 208 compliance testing more representative of the seating position likely to be selected by actual front seat passengers using the car on the public roads.

Ford also commented that it supported the MVMA petition. In its comments, Ford stated that it did not have any data from controlled tests to demonstrate the effect of vertical seat adjustment positions on the various test dummy measurements of injury producing forces, but stated its belief that vertical seat adjustment could in some cases significantly affect the test dummy kinematics. Because of this possibility, Ford asked that, if the MVMA petition were granted, the new vertical seat adjustment procedures be optional until the use of the Hybrid III test dummy becomes mandatory in compliance testing.

After carefully considering these comments and other relevant information, the agency has decided to deny the MVMA petition for the following reasons. NHTSA is generally reluctant to change the test procedures in its safety standards unless there is some compelling reason to do so. This reluctance is primarily based upon the fact that the agency has already determined, through the rulemaking process, that the established test procedures satisfy all the criteria specified in the Safety Act. Additionally, the agency and the affected manufacturers have gained experience and a data bank of test results following the established test procedures. These facts establish a legitimate interest in retaining test procedures that have been established for the safety standards.

This is not to suggest that the agency will never consider changes to established test procedures. For example, it might be shown that the established test procedures no longer satisfy the criteria specified in the Safety Act, or that those procedures no longer serve the purposes for which they were established, or that those procedures are imposing an unnecessary restriction on an innovative technology. These circumstances would represent compelling reasons for NHTSA to consider changing some existing test procedures. A part of this consideration would necessarily include whether changed test procedures would result in a lessening of the safety protection afforded to vehicle occupants.

The issue ultimately raised by the MVMA petition, then, is whether there are any compelling reasons for the agency to consider changing the vertical seat positioning procedure in Standard No. 208. After again reviewing the MVMA petition in light of the comments received on it, the agency has concluded that there are no compelling reasons to consider changing the existing requirements.

The first reason suggested in the MVMA petition for changing the vertical seat positioning requirements was that a change would be consistent with the requirements of Standard No. 208 for adjustable seat backs, which are required to be placed at "the manufacturer's nominal design riding position." This point is correct, but it

ignores the fact that many adjustable vehicle features in vehicles are required to be set at specific positions during Standard No. 208 compliance testing. For instance, adjustable seats are positioned at the midpoint of their horizontal adjustment track (S8.1.2), and adjustable head restraints are positioned at their highest adjustment position (S8.1.3). The fact that the vertical seat position is established at a specific adjustment position, as are adjustable head restraints, instead of at the manufacturer's nominal design riding position, as are adjustable seat backs, is not a compelling reason for the agency to consider changing the vertical seat positioning requirements.

The second reason set forth in the MVMA petition for changing the vertical seat positioning requirements was that these requirements have the potential for burdening manufacturers with duplicative testing of vehicles that have some models equipped with vertically-adjustable seats and other models that do not have vertically-adjustable seats. While this assertion may be true, the information available to the agency indicates that this is not a problem at this time. Ford states in its comments on the Hybrid III test dummy rulemaking that when it offers vehicles with some models equipped with vertically-adjustable seats and other models not so equipped, it conducts compliance testing only on the models without vertically adjustable seats. See NHTSA Docket 74–14–N39–013. This statement shows that, for this manufacturer at least, the potential for duplicative testing has not resulted in any unnecessary testing burdens, because the manufacturer has not actually conducted any duplicative testing. None of the manufacturers that commented on the MVMA petition asserted that it presently conducts the duplicative testing alleged in the petition.

To this agency's knowledge, neither NHTSA nor any vehicle manufacturer has ever conducted the sort of duplicative testing alleged in the MVMA petition. Thus, there is no unnecessary burden imposed at present by the vertical seat positioning requirements in Standard No. 208. There is also no evidence suggesting that unnecessary or duplicative testing will be necessary in the future, since no manufacturer has indicated that it plans to conduct this type of testing in the future. Hence, while the agency agrees with MVMA's point that the current vertical seat positioning procedures might result in the need for duplicative testing in some cases, current information suggests this is a very unlikely possibility. The existence of an unlikely possibility is not a compelling reason to consider changing the seat positioning procedures.

The third reason offered in the MVMA petition for changing the seat positioning procedures was that the changed position would be more representative of the vertical seat adjustment positions that will be typically selected by drivers and passengers when the cars are in use on the public roads. In its comments, Ford provided what it termed a "limited sample" of the vertical seat adjustment positions chosen by 95 drivers of cars with vertically-adjustable seats. According to Ford, this sample showed that the nominal design riding position would be more representative of the vertical adjustment position selected by drivers than the lowest seating position.

NHTSA does not believe that the Ford survey could be used to draw any valid conclusions for the driving population as a whole. As Ford acknowledged in its comments, the survey sample size is so small that no statistically valid conclusions could be drawn from it. Additionally, Ford noted that the sample was 82 percent male, indicating that the sample is not entirely representative.

Even if NHTSA were to overlook these inherent limitations and accept the survey as valid and generally representative, the survey does not establish the nominal design riding position to be the most representative position. In Ford's survey, 32 of the 95 drivers had their seats set within 0.2 inches of the nominal design riding position, 22 of the 95 drivers had their seat adjusted more than 0.2 inches above the nominal design riding position, 18 had their seat adjusted more than 0.2 inches below the nominal design riding position but above the lowest adjustment position, and 23 of the 95 drivers had selected a seating position at or below the lowest vertical position at the longitudinal midpoint of the fore-aft seat adjustment position. This survey suggest that none of the vertical seat adjustment positions is selected by the majority of drivers. While the survey shows that more drivers chose to adjust their seat within 0.2 inches of the nominal design riding position than the lowest adjustment position, the difference in frequency is small. This small difference would not be a compelling reason for the agency to consider changing its seat positioning procedures.

Accordingly, NHTSA has concluded that there is no reasonable possibility that a rule amending the vertical seat positioning procedures for Standard No. 208 in accordance with MVMA's petition would be issued at the conclusion of the requested rulemaking proceeding. Therefore, MVMA's petition is denied.

Authority: 15 U.S.C. 1392, 1407, and 1410a; delegations of authority at 49 CFR 1.50 and 49 CFR 501.8.

Issued on April 14, 1989.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 89–9365 Filed 4–18–89; 8:45 am]

BILLING CODE 4910–59–M

Notices

Federal Register
Vol. 54, No. 74
Wednesday, April 19, 1989

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ACTION

Foster Grandparent and Senior Companion Programs

AGENCY: Action.

ACTION: Notice of revision of income eligibility levels for Foster Grandparent and Senior Companion Programs.

SUMMARY: This Notice revises the schedules of income eligibility levels for participation in the Foster Grandparent and Senior Companion Programs published in the **Federal Register,** June 22, 1988 (53 FR 120) and December 13, 1988 (53 FR 239). Because data used for determining FGP and SCP income eligibility levels is available at different times during the year, ACTION has determined that it will issue these guidelines twice a year so as to reflect the most current information and to assure the widest base of potential applicants.

The revised schedules are based on changes in the Poverty Income Guidelines from the Department of Health and Human Services (DHHS), effective February 16, 1989 (54 FR 31) and Supplemental Security Income (SSI) guidelines disseminated by the Social Security Administration, in October 1988. This revision adopts as the income eligibility level for each state the higher amount of either: (a) 125% of the DHHS Poverty Income Guidelines, or (b) 100% of the DHHS Poverty Income Guidelines plus the 1988 amount each state supplemented federal SSI, rounded to the next highest multiple of $5.00. When the Social Security Administration disseminates the 1989 state supplemental to the federal SSI, ACTION will revise its income eligibility guidelines for those states with SSI suplements above 125% of the DHHS Poverty Income Guidelines.

Schedule of Income Eligibility Levels: Foster Grandparent and Senior Companion Programs

1989 FGP/SCP Income Eligibility Levels for all States, (and Hawaii) except Alaska, California, Colorado, Connecticut, Massachusetts (Based on 125% of DHHS Poverty Income. Guidelines)

States	Household Units of							
	One	Two	Three	Four	Five	Six	Seven	Eight
All	$7,475	$10,025	$12,575	$15,125	$17,675	$20,225	$22,775	$25,325
Hawaii	8,590	11,525	14,465	17,400	20,340	23,275	26,215	29,150

(For household units with more than eight members, add $2,505 in all states and $2,940 in Hawaii for each additional member.)

Below are adjusted income eligibility levels, which reflect either 1988 SSI Supplements or 125% of the DHHS 1989 Poverty Income Guidelines, and shall apply to the following states.

State	Household units of							
	One	Two	Three	Four	Five	Six	Seven	Eight
AK	$10,870	$14,990	$17,440	$19,890	$22,340	$24,790	$27,240	$29,690
CA	9,170	15,630	17,590	19,550	21,510	23,470	25,430	27,390
CO	7,475	11,235	13,195	15,125	17,675	20,225	22,775	25,325
CT	10,610	14,475	16,435	18,395	20,355	22,315	24,275	26,235
MA	7,475	10,155	12,575	15,125	17,675	20,225	22,775	25,325

(For household units with more than eight members add $2,450 in AK, $1,960 in CA and CT, and $2,550 in CO and MA for each additional member.)

Any person whose income is not more than 100 percent of the DHHS Poverty Income Guideline for her/his specific household unit shall be given special consideration for participation in the Foster Grandparent and Senior Companion Programs. The revised income eligibility levels presented here are calculated from the base DHHS Poverty Income Guidelines now in effect.

1989 DHHS POVERTY INCOME GUIDELINES FOR ALL STATES

States	For Household units of							
	One	Two	Three	Four	Five	Six	Seven	Eight
All except HI & AK	$5,980	$8,020	$10,060	$12,100	$14,140	$16,180	$18,220	$20,260
Hawaii	6,870	9,220	11,570	13,920	16,270	18,620	20,970	23,320
Alaska	7,480	10,030	12,580	15,130	17,680	20,230	22,780	25,330

EFFECTIVE DATE: April 19, 1989.

FOR FURTHER INFORMATION CONTACT: Rey Tejada, Program Officer, Foster Grandparent Program/Senior Companion Program, 806 Connecticut Avenue, NW., M–1006, Washington, DC 20525 or telephone (202) 634–9394.

SUPPLEMENTARY INFORMATION: These ACTION programs are authorized pursuant to section 211 and 213 of the Domestic Volunteer Service Act of 1973, as amended, Pub. L. 93–113, 87 Stat. 394. The income eligibility levels are determined by the currently applicable guidelines published by DHHS pursuant to sections 652 and 673 (2) of the Omnibus Budget Reconciliation Act of 1981 which requires poverty guidelines to be adjusted for Consumer Price Index changes.

Signed in Washington, DC, April 13, 1989.

Donna M. Alvarado,

Director of ACTION.

[FR Doc. 89–9349 Filed 4–18–89; 8:45am]

BILLING CODE 6050–28–M

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

Grand Electric Cooperative, Inc.; Finding of No Significant Impact

AGENCY: Rural Electrification Administration, USDA.

ACTION: Finding of no significant impact.

SUMMARY: Notice is hereby given that the Rural Electrification Administration (REA), pursuant to the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*), the Council on Environmental Quality Regulations (40 CFR Parts 1500–1508), and REA Environmental Policy and Procedures (7 CFR Part 1794), has made a Finding of No Significant Impact (FONSI) with respect to the construction of the Bowman-Ladner 115 kV transmission line and other related facilities. Other facilities include the expansion of the Bowman Substation and the construction of the Koch distribution substation. The proposed facilities will be located in Bowman County, North Dakota and Harding County, South Dakota. The proposed facilities will be built by the Grand Electric Cooperative, Inc. (Grand Electric), of Bison, South Dakota. The transmission line will be built to 115 kV specifications but initially energized at 69 kV.

FOR FURTHER INFORMATION CONTACT: REA's Environmental Assessment (EA) and FONSI and Grand Electric's Borrower's Environmental Report (BER) may be reviewed at the Office of the Director, Northwest Area—Electric, REA, Room 0230, South Agriculture Building, Washington, DC 20250, telephone (202) 382–1400; or the office of Grand Electric, Darrell D. Henderson, Manager, P. O. Box 39, Bison, South Dakota 57620, telephone (605) 244–5211, during regular business hours. Copies of the BER, EA and FONSI can be obtained from either of the contacts listed above. All comments or questions should be directed to the REA contact.

SUPPLEMENTARY INFORMATION: REA reviewed the BER submitted by Grand Electric and determined that it represents an accurate assessment of the environmental impacts of the proposed project. The project consists of a 115 kV transmission line approximately 48 kilometers (30 miles) in length and associated facilities. Associated facilities include the expansion of the Bowman Substation, located about 8 kilometers (5 miles) southeast of Bowman, Bowman County, North Dakota and the construction of the Koch distribution substation near Ladner in Harding County, South Dakota. The BER and EA adequately consider the potential impacts of the proposed project, and REA has concluded that approval of the project would not result in a major Federal action significantly affecting the quality of the human environment. REA determined that the proposed project will have no effect on air quality, water quality, floodplains, wetlands, important farmlands, prime rangelands or prime forest lands, Federal or State listed or proposed listing of threatened or endangered species or their critical habitat, or any property listed or eligible for listing in the *National Register of Historic Places*. REA identified no other matters of potential environmental concern related to the proposed project.

Various alternatives to the proposed project were considered including no action, rebuilding the existing transmission system, energy conservation, alternative substation sites, alternative transmission routes, and underground construction. REA determined that the proposed project is an environmentally acceptable alternative that meets Grand Electric's need with a minimum of adverse environmental impact. REA has concluded that project approval would not constitute a major Federal action significantly affecting the quality of the human environment. Therefore, the preparation of an Environmental Impact Statement is not necessary.

In accordance with REA's Environmental Policies and Procedures, 7 CFR Part 1794, Grand Electric advertised in the newspapers requesting comments on the environmental aspects of the proposed project. No comments were received.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.850–Rural Electrification Loans and Loan Guarantees. For the reasons set forth in the final rule related notice to 7 CFR Part 3015 Subpart V in 50 FR 47034, November 14, 1985, this program is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

Date: April 13, 1989.

Frank W. Bennett,

Acting Assistant Administrator—Electric.

[FR Doc. 89–9303 Filed 4–18–89; 8:45 am]

BILLING CODE 3410–15–M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee; Partially Closed Meeting

A meeting of the Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee will be held May 16, 1989 at 9:30 a.m., Herbert C. Hoover Building,

Room 1617F, 14th Street and Constitution Avenue, NW., Washington, DC.

The Committee advises the Office of Technology and Policy Analysis with respect to technical questions which affect the level of export controls applicable to computer peripherals and related test equipment or technology.

Agenda

General Session

1. Introduction of Members and Visitors.
2. Introduction of Invited Guests.
3. Presentation of Papers or Comments by the Public.
4. Election of Chairman.
5. COCOM Participation.
6. Decontrol of Winchester Drives.
7. Flow Charts of Graphics Workstation.
8. Discussion of 1522 Subgroup.
9. Discussion of Bulgarian 10 MB Drive.
10. Original Equipment Manufacture (OEM) Sales to the Bloc.
11. G–COM Disk Packs.
12. Discussion of 1565A Rewrite.

Executive Session

13. Discussion of matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The meeting will be open to the public and a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting and can be directed to: Technical Support Staff, Office of Technology & Policy Analysis, Room 4069A, 14th & Constitution Avenue, NW., Washington, DC 20230.

The Assistant Secretary for Admninistration, with the concurrence of the delegate of the General Counsel, formally determined on January 10, 1988, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings or portions of meetings of the Committee and of any Subcommittees thereof, dealing with the classified materials listed in 5 U.S.C. 552b(c)(1) shall be exempt from the provisions relating to public meetings found in section 10 (a)(1) and (a)(3), of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public.

A copy of the Notice of Determination to close meetings or portions of meetings of the Committee is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, Washington, DC. For further information or copies of the minutes call Ruth D. Fitts, 202–377–4959.

Date: April 13, 1989.

Betty A. Ferrell,

Director, Technical Advisory Committee Unit, Office of Technology and Policy Analysis.

[FR Doc. 89–9294 Filed 4–18–89; 8:45 am]

BILLING CODE 3510–DT–M

National Oceanic and Atmospheric Administration

Intention to Adjust the Boundary of the Currituck Banks Component of the North Carolina National Estuarine Research Reserve

AGENCY: Marine and Estuarine Management Division, Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration, Commerce.

ACTION: Public notice.

SUMMARY: Notice is hereby given that the Division of Coastal Management, of the State of North Carolina, intends to adjust the boundary of the Currituck Banks Compenent of the North Carolina National Estuarine Research Reserve. The area authorized for trade is immediately adjacent to the existing boundary for the Currituck Banks Component as described in the Draft Management Plan dated September 1985, prepared jointly by the U.S. Department of Commerce, National Oceanic and Atmospheric Administration, Office of Ocean and Coastal Resource Management, and the State of North Carolina Division of Coastal Management.

This boundary adjustment is not intended to increase or decrease the Reserve property, but will merely shift a 42-acre inholding, owned by Monkey Island Investment Associates of Norfolk, Virginia, approximately 249 feet to the south. This tract is described as follows:

Beginning at an iron pipe in the mean high tide common boundary corner of the State of North Carolina and the Monkey Island Investments Associates, said corner being 2,124.68 feet north of the common property corner of northeastern corner of Ocean Hills subdivision and the southeastern boundary corner of State of North Carolina, thence S 87 degrees 10'22" W 744.10 feet to a point, thence N 87 degrees 10'22" E 390 feet to a point, thence S 13 degrees 36'31" E 61.08 feet to a point, thence S 87 degrees 10'22" W 390.00 feet to a point, thence S 13 degrees 36'31" E 880.20 feet to a point, thence N 87 degrees 10'22" E 390.00 feet to a point, thence N 13 degrees 36'31" W 61.08 feet to a point, thence N 87 degrees 10'22" E 622.44 feet to a point, thence N 87 degrees 10'22" E 187.44 feet to a point, thence N 14 degrees 33'38" W 1886.43 feet to a point, thence S 87 degrees 10'22" W 130.53 feet to a point and place of beginning containing 42.252 acres.

Any person wishing to comment on the proposed adjustment may forward written statements to the Division of Coastal Management, P.O. Box 27687, Raleigh, North Carolina, 27611 Attn: Reserve Coordinator. Comments must be received by the Division of Coastal Management no later than close of business on May 31, 1989.

Federal Domestic Assistance Catalog Number 11.420 (Coastal Zone Management) Estuarine Sanctuaries.

Thomas J. Maginnis,

Assistant Administrator for Ocean Services and Coastal Zone Management.

Dated: April 13, 1989.

[FR Doc. 89–9343 Filed 4–18–89; 8:45 am]

BILLING CODE 3510–08–M

National Oceanic and Atmospheric Administration

Announcement of Stellwagen Bank (MA) as an Active Candidate for Designation as a National Marine Sanctuary; Intent To Prepare a Draft Environmental Impact Statement and Management Plan; Public Scoping Meetings

AGENCY: Office of Ocean and Coastal Resource Management (OCRM), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Notice.

SUMMARY: NOAA is announcing Stellwagen Bank (5 nautical miles north of Cape Cod, Massachusetts) as an Active Candidate for designation as a National Marine Sanctuary, and its intent to prepare a draft environmental impact statement and management plan (DEIS/MP) on the proposal to designate. NOAA will also conduct public scoping meetings to assist in the development of the DEIS/MP. The study area includes an offshore area located 6.3 miles north of Provincetown, MA and measuring 31.6 miles by 19.1 miles. Approximately 605 square miles are encompassed in the study area.

Selection of a site as an Active Candidate formally initiates the National Environmental Policy Act (NEPA) process; NOAA will prepare a DEIS/MP to examine management, boundary and regulatory alternatives associated with Sanctuary designation.

NOAA will conduct public scoping meetings to gather information and comments from individuals, organizations, and government agencies on the range and significance of issues related to this proposal. Scoping meetings will be held at:

(1) Town Hall, Commercial Street, Provincetown, MA, 7:00 p.m., Tuesday, June 13, 1989;

(2) Conference Room, Sheraton-Portsmouth Hotel, 250 Market Street, Portsmouth NH, 7:00 p.m., Wednesday, June 14, 1989;

(3) Conference Room NOAA/ Fisheries Building, 1 Blackburn Drive, Gloucester, MA, 7:00 p.m., Thursday, June 15, 1989; and

(4) Harbor View Room, New England Aquarium, Boston, MA, 1:00 p.m., Friday, June 16, 1989.

All interested persons are invited to attend.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph A. Uravitch, Chief, or Ms. Sherrard Foster, Project Manager, Marine and Estuarine Management Division, Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration, 1825 Connecticut Avenue, NW., Suite 714, Washington, DC 20235 (202/673-5122).

SUPPLEMENTARY INFORMATION:

Background and Selection Procedures

Title III of the Marine Protection, Research and Sanctuaries Act of 1972, as amended, 16 U.S.C. 1431 *et seq.* (the Act), authorizes the Secretary of Commerce to designate those areas of coastal and ocean waters, the Great Lakes and their connecting waters, and submerged lands over which the United States exercises jurisdiction, consistent with international law, as National Marine Sanctuaries. The purpose of designating National Marine Sanctuaries is to protect and manage distinctive areas of the marine environment for those conservation, recreational, ecological, historical, research, educational, or esthetic values which give these areas special national significance. The Act is administered by the National Oceanic and Atmospheric Administration (NOAA); through the Office of Ocean and Coastal Resource Management (OCRM); Marine and Estuarine Management Division (MEMD).

In January 1982, NOAA published a Program Development Plan (PDP) for the National Marine Sanctuary Program, describing the Program's mission and goals; site identification and selection criteria; and the nomination and designation process. In September 1982, NOAA issued proposed regulations for the continued operation of the Program (47 FR 39191). Pursuant to the PDP and those regulations, NOAA published a proposed Site Evaluation List (SEL), comprised of highly-qualified marine sites identified and recommended to NOAA by regional resource evaluation teams. SEL sites meet Program criteria for further evaluation as possible National Marine Sanctuaries. Team recommendations were made in accordance with the Program's mission and goals set forth in the PDP, in Section 922.1 of the final Program regulations, and in Appendix 1 of the regulations. The Stellwagen Bank study area was recommended by the Resource Evaluation Team for the North Atlantic Region, and was placed on the SEL in 1983 (48 FR 35568). In the normal process of National Marine Sanctuary designation, the Secretary of Commerce (through NOAA) will from time to time select sites from the SEL as Active Candidates, to initiate the process of such further evaluation.

Changes in the process for designating National Marine Sanctuaries were made by 1984 and 1988 Amendments to the Act (Title III of Pub. L. 98-498, and Title II of Pub. L. 100-627, codified at 16 U.S.C. 1431 *et seq*). NOAA's program operating final regulations (15 CFR Part 922, 53 FR 43802, October 28, 1988), reflect the provisions of the 1984 Amendments. Where there is a conflict between the current regulations and the 1988 Amendments, NOAA relies on the statutory Amendments.

The 1988 Amendments (section 304(b)) establish a finite period of time for designation of new National Marine Sanctuaries, i.e., 30 months from the **Federal Register** notice of Active Candidacy to a notice of designation (or findings regarding why such notice has not been published). Additionally, the 1988 Amendments specifically require (at section 304(a)) that a prospectus on the Stellwagen Bank proposal be submitted to Congress not later than September 30, 1990. NOAA is announcing Stellwagen Bank as an Active Candidate now in order to meet the required deadline for this submission to Congress. The Active Candidacy notice formally initiates the 30-month period during which NOAA must conduct the complete National Environmental Policy Act (NEPA) environmental impact analysis process, and publish either a notice of designation or findings regarding why such notice has not been published.

Following the scoping meetings announced in this notice, subsequent designation steps include preparation of the DEIS/MP document; public hearing(s); preparation of a final environmental impact statement/ management plan; and recommendation for approval of the designation to the Secretary of Commerce or designee. Opportunities for public comment exist throughout this process, and will be announced in the **Federal Register**, the local media, and other appropriate channels.

Section 303 of the Act (16 U.S.C. 1433) and implementing regulations for the National Marine Sanctuary Program (at 15 CFR 922.33) establish procedures for evaluation of the suitability of active candidates as National Marine Sanctuaries. NOAA will determine to what extent designation will fulfill the purposes and policies of the Act, i.e., whether:

(1) The area is of special national significance due to its resource or human use value;

(2) Existing State and Federal authorities are inadequate to ensure coordinated and comprehensive conservation and management of the area, including resource protection, scientific research, and public education;

(3) Designation of the area as a National Marine Sanctuary will ensure coordinated and comprehensive conservation and management of the area not provided by existing authorities; and

(4) The area is of a size and nature that will permit comprehensive and coordinated conservation and management.

In making these determinations, NOAA will consider:

(1) The area's natural resource and ecological qualities, including its contribution to biological productivity; maintenance of ecosystem structure, maintenance of ecologically or commercially important or threatened species or species assemblages, and the biogeographic representation of the site;

(2) The area's historical, cultural, archeological, or paleontological significance;

(3) The present and potential uses of the area that depend on maintenance of the area's resources, including commercial and recreational fishing, subsistence uses, other commercial and recreational activities, an research and education;

(4) The present and potential activities that may adversely affect the factors identified in the considerations listed above;

(5) The existing State and Federal regulatory and management authorities applicable to the area and the adequacy

of those authorities to fulfill the purposes and policies of the Act;

(6) The manageability of the area, including such factors as its size, its ability to be identified as a discrete ecological unit with definable boundaries, its accessibility, and its suitability for monitoring and enforcement activities,

(7) The public benefits to be derived from Sanctuary status, with emphasis on the benefits of long-term protection of nationally significant resources, vital habitats, and resources which generate tourism;

(8) The negative impacts produced by management restrictions on income-generating activities such as living and non-living resource development;

(9) The socioeconomic effects of Sanctuary designation; and

(10) The fiscal capability of NOAA to manage the area as a National Marine Sanctuary.

In preparing the DEIS/MP to examine the management, boundary and regulatory alternatives associated with Sanctuary designation, NOAA will solicit comments from interested individuals, groups and organizations, appropriate Congressional Committees, Federal agencies, responsible officials of State and local governments, and officials of the affected Regional Fishery Management Council. This will be done during the scoping meetings identified herein, to be conducted prior to preparation of the DEIS/MP. Comments will also be received during public hearings on the completed DEIS/MP.

Site Description

Natural Resources. Stellwagen Bank is a shallow, glacially-deposited gravel feature located approximately six miles (10.186 km) off the northern end of Cape Code, Massachusetts, in the southern Gulf of Maine. The Bank measures 18.75 miles in length and 6.25 miles in width at its widest point. Water depths over the Bank range from 61 feet along the scarp of the southwestern end, and 78 feet at the northwestern end, to a maximum of 120 feet at the southeast end of the Bank. Deeper waters surround the Bank; maximum depths exceeding 330 feet occur north of the Bank and within the study area. The Sanctuary study area occurs entirely within Federal waters. The study area is marked by the following coordinates: 70°14′N, 42°36′W (northeast point) by 70°35′N, 42°31′W (northwest point) by 70°26′N, 42°05′W (southwest point), by 70°04′N, 42°09′W (southeast point).

Oceanographic/Physical Characteristics. Oceanographic conditions and hydrography are highly varied in the vicinity of Stellwagen Bank. Surface circulation in the Gulf of Maine generally is counterclockwise, with currents moving southward along the Maine and New Hampshire coasts and into the Massachusetts Bay, where the flow turns gradually eastward across the northern edge of Georges Bank, further offshore. The moderate to high velocity, east-west tidal current sweeps the Bank's shallows, generating internal waves during summer months. Mixing of the water column is widespread during winter months, when isothermal conditions characterize the Bank's waters.

The Bank's profile is markedly asymmetric: the seaward edge is gentle, and the shoreward slope is steep (dropping from 27 to 80 meters over a horizontal distance of approximately one kilometer).

Regional Productivity. Primary biological productivity at Stellwagen Bank follows a temperate coastal zone cycle. Two distinct peak productivity periods are evident: the more extensive from March through May, and a second, shorter period from mid-September through October. Seasonal overturn and mixing of coastal waters with nutrient-rich waters from deeper strata produce a complex system of overlapping mid-water and benthic habitats. Predominantly sand and gravel substrates support benthic communities composed of polychaete worms, amphipods, and mollusks.

The extensive and cyclic biological productivity supports a variety of commercially important fishery resources. Over a dozen species are commercially harvested, including mackerel, bluefin tuna, blue fish, shad, menhaden, herring, striped bass, cod, haddock, flounder, quahog, and sea scallop. The predominant forage fish found at the Bank is the sand lance (*Ammodytes americanus*), which attracts several large fish species and a seasonal variety of balaenopterid cetacean species. The largest high-latitude population of humpback whales (*Megaptera novaengliae*) in the contiguous United States occurs seasonally at Stellwagen Bank, in addition to fin whales (*Balaenoptera physalus*), minke whales (*Balaenoptera acutorostrata*), northern right whales (*Eubalaena glacialis*), Atlantic white-sided dolphins (*Lagenorhynchus acutus*), white-beaked dolphins (*Lagenorhynchus albirostris*), and harbor porpoises (*Phocoena phocoena*). In addition to these frequently-observed species, orca whales (*Orcinus orca*), and pilot whales (*Globicephala melaena*) are also occasionally observed at Stellwagen Bank.

Particular scientific interest is focused on four species of large cetaceans (humpbacks, fins, minkes, and northern rights) using Stellwagen Bank as feeding and nursery grounds. With the exception of the minke whale, these species are all considered "endangered" pursuant to the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*).

Northern right whales are one of the most severely endangered cetracean species in the world; no more than 150 individuals are thought to remain in the western North Atlantic Ocean. Recorded sightings of right whales at Stellwagen Bank over the past four years indicate the Bank's importance for feeding and for nursing of calves: a significant number of identified northern right whales have been observed returning to the Bank season after season.

Fin whales exist in relatively large numbers throughout the world's non-tropical oceans, and approximately 3,600 to 6,300 exist in the North Atlantic Ocean. Fin whales associated with the Stellwagen Bank system are ubiquitous and apparently year-round residents.

Minke whales also exist in relatively large numbers worldwide (excluding tropical waters), although the size of the North Atlantic population is currently unknown.

The world population of humpback whales is believed to be not more than 8,000 animals geographically distributed into fifteen demographic groups. Approximately 2,000 humpbacks in the western North Atlantic Ocean comprise the largest, yet least studied, population in the world. More than 100 humpbacks return annually to Stellwagen Bank from mating and calving grounds in the eastern central Caribbean Sea. Research to date has focused on this species, and details of its movements are better documented than those of other cetaceans. Humpbacks enter the Stellwagen Bank system between mid-March and mid-April, and remain until mid-November (one of the longest residency periods known anywhere).

Diverse pelagic and coastal bird species seasonally forage at the Stellwagen Bank system. Among species known to frequent or migrate through the Bank area are: storm petrels, gulls, terns, brants, oldsquaws, scoters, ospreys, shearwaters, dovekies, puffins, fulmars, gannets, murres, loons, kittiwakes, phalaropes, and jaegers.

At least two species of sea turtles also feed in the general area of the Bank, the loggerhead *Carretta carretta*) and the leatherback (*Dermochelys coriacea*). Transient species include the Kemp's

ridley (*Lepidochelys kempi*) and the green (*Chelonia mydas*).

Human Uses. Waters over and around the Bank are used extensively for numerous purposes, including commercial and recreational fishing, commercial whale-watching, recreational boating, shipping, and research.

Commercial Uses. The most important activity directly dependent on resources of the Stellwagen Bank area is commercial fishing. Extensive fisheries include groundfish species, such as Atlantic cod, haddock, yellowtail flounder, winter flounder, and silver hake. Invertebrates include ocean quahogs, sea scallops, and American lobsters. Pelagic fisheries include Atlantic herring, mackerel, bluefin tuna, and bluefish. The New England commercial fishing fleet increased from 1,225 registered vessels in 1986 (5 gross tons or larger) to 1,334 such vessels in 1987; and total landings increased slightly from 275,300 tons to 277,600 tons during the same period. Revenues generated (adjusted value) exceeded $186 million in 1987.

Commercial whale-watching activities operating from Maine to Connecticut are largely focused on Stellwagen Bank and Jeffrey's Ledge (located north of Stellwagen Bank). During 1986, more than 40 commercial whale-watch vessels conducted trips to these areas from May through September (approximately 8,550 trips). Assuming full vessel capacity, visitation levels to these areas exceeded one million persons during the five-month period. Revenues in 1986 from commercial whale-watch operations are estimated at over $16 million.

Shipping lanes for commercial vessel traffic in and out of Boston traverse directly across Stellwagen Bank. During 1986, a total of 12,728 trips were made in and out of Boston by both self-propelled and non-self propelled vessels.

Recreational Uses. Recreational fishing in the Stellwagen Bank area is seasonal and primarily focused on scup, bluefish, summer and winter flounder, Atlantic mackerel, Atlantic cod, and pollack. Recreational boating is also a popular activity during summer months.

Research Activities. The biological abundance of the Stellwagen Bank system generates scientific research on cetaceans and the resources supporting them. Research and monitoring activities are also conducted on fisheries. Research facilities in the area include the Center for Coastal Studies (Provincetown); the University of Massachusetts (Boston); the New England Aquarium (Boston); Woods Hole Oceanographic Institution (Woods Hole); the Marine Biological Laboratory (Woods Hole); the Manomet Bird Observatory (Manomet); and the National Marine Fisheries Service (Gloucester and Woods Hole). Additional institutions or organizations having supported research activities in the vicinity of Stellwagen Bank include the College of the Atlantic; Gloucester Fishermen's Museum; University of Maine; University of Rhode Island; and Cape Cod Museum of Natural History.

The Designation Process

The management plan to be prepared for the proposed Sanctuary will specify the goals and objectives of Sanctuary designation and describe programs for resource protection, research and interpretation. The various administrative and regulatory alternatives for Sanctuary management will be analyzed in the environmental impact statement.

Opportunities for public participation in NOAA's development of a draft environmental impact statement and management plan will be provided through the June scoping meetings, solicitation of comments on the DEIS/MP document, and public hearings.

The June scoping meetings will attempt to identify issues in establishing a Stellwagen Bank National Marine Sanctuary and generate suggestions for resolving them. Topics for discussion will include the following: (1) Boundary alternatives; (2) management alternatives; (3) resource protection; (4) interpretive opportunities.

(Federal Domestic Assistance Catalogue Number 11.429 Marine Sanctuary Program)

Date: April 13, 1989.

Thomas J. Maginnis,

Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 89-9297 Filed 4-18-89; 8:45 am]

BILLING CODE 3510-08-M

Marine Mammals; Application for Modification; Deborah A. Glockner-Ferrari and Mark J. Ferrari (P171A)

Notice is hereby given that Ms. Deborah A. Glockner-Ferrari and Mr. Mark J. Ferrari, 1728 San Luis Road, Walnut Creek, California 94596, requested a modification of Permit No. 538 issued on January 14, 1986 (51 FR 3093), under the authority of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), the Endangered Species Act of 1973 (16 U.S.C. 1531-1543), and the National Marine Fisheries Service regulations governing endangered fish and wildlife (50 CFR Parts 217-222).

Permit No. 538 authorizes the inadvertent harassment of an unspecified number of humpback whales (*Megaptera novaeangliae*) in the North Pacific during population studies using photographic techniques. Areas of activity include waters surrounding the Hawaiian Islands and waters of California and Alaska. The Permit Holder requests a modification to the Permit to allow population studies using photographic techniques on an opportunistic basis on all species encountered during their work with humpback whales studies. The incidental sightings include an unspecified number of bottlenose dolphin (*Tursiops truncatus*), spinner dolphin (*Stenella longirostris*), spotted dolphin (*Stenella attenuata*), false killer whale (*Pseudorca crassidens*), short-finned pilot whale (*Globicephala macrorhynchus*), killer whales (*Orcinus orca*), harbor porpoise (*Phocoena phocoena*), and Dall's porpoise (*Phocoenoides dalli*).

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this modification to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this modification request should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, 1335 East West Hwy., Room 7324, Silver Spring, Maryland 20910, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular modification would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries. All statements and opinions contained in this modification request are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above modification request are available for review by interested persons in the following offices:

Office of Protected Resources, National Marine Fisheries Service, 1335 East West Hwy., Room 7324, Silver Spring, Maryland 20910;

Director, Alaska Region, National Marine Fisheries Service, 709 West 9th Street, Federal Bldg., Juneau, Alaska 99802;

Director, Northwest Region, National Marine Fisheries Service, 7600 Sand

Point Way, NE., BIN C15700, Seattle, Washington 98115; and

Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731.

Nancy Foster,

Director, Office of Protected Resources and Habitat Programs.

[FR Doc. 89-9269 Filed 4-18-89; 8:45 am]

BILLING CODE 3510-22-M

National Technical Information Service

Intent to Grant Exclusive Patent License; AgriSense

The National Technical Information Service (NTIS), U.S. Department of Commerce, intends to grant to AgriSense, having a place of business in Fresno, California, an exclusive license in the United States and certain foreign countries to practice the invention entitled "A Novel System for Monitoring and Controlling the Papaya Fruit Fly", U.S. Patent Application Serial Number 7-240,312. The patent rights in this invention will assigned to the United States of America, as represented by the Secretary of Commerce.

The intended exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The intended license may be granted unless, within sixty days from the date of this published Notice, NTIS receives written evidence and argument which establishes that the grant of the intended license would not serve the public interest.

Inquiries, comments, and other materials relating to the proposed license must be submitted to Douglas J. Campion, Office of Federal Patent Licensing, NTIS, Box 1423, Springfield, VA 22151.

A copy of the instant patent application may be purchased from the NTIS Sales Desk by telephoning (703) 487-4650 or by writing to the Order Department, NTIS, 5285 Port Royal Road, Springfield, VA 22161.

Douglas J. Campion,

Associate Director, Office of Fedeal Patent Licensing, National Technical Information Service, U.S. Department of Commerce.

[FR Doc. 89-9319 Filed 4-18-89; 8:45 am]

BILLING CODE 3510-04-M

DEPARTMENT OF DEFENSE

Department of the Air Force

Scientific Advisory Board; Meeting

April 10, 1989.

The USAF Scientific Advisory Board Ad Hoc Committee on Munitions Effectiveness will meet on 10-11 May 1989 from 8:00 AM to 5:00 PM at The Pentagon, Washington, DC.

The purposes of this meeting are to assess the changes in the threat over the past ten years and to study how to take full advantage of potential technology improvements in the development and manufacturing of munitions. This meeting will involve discussions of classified defense matters listed in section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697-4648.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc.89-9320 filed Filed 4-18-89; 8:45 am]

BILLING CODE 3910-01-M

Scientific Advisory Board; Meeting

April 3, 1989.

The USAF Scientific Advisory Board Division Advisory Group (DAG) for Electronic Systems Division (ESD) will meet on 30 May 1989 from 8:30 AM to 5:00 PM on 31 May 1989 from 8:30 AM to 12:00 PM at Hanscom AFB, MA.

The purpose of this meeting is to review the ESD C3I acquisition programs and related RADC technology efforts. This meeting will involve discussions of classified defense matters listed in section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697-4648.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc.89-9321 Filed 4-18-89; 8:45 am]

BILLING CODE 3910-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ST89-1541-000, et al.]

Southern Natural Gas; Self-Implementing Transactions

April 13, 1989.

Take notice that the following transactions have been reported to the Commission as being implemented pursuant to Part 284 of the Commission's Regulations, and Sections 311 and 312 of the Natural Gas Policy Act of 1978 (NGPA).[1]

The "Recipient" column in the following table indicates that entity receiving or purchasing the natural gas in each transaction.

The "Part 284 Subpart" column in the following table indicates the type of transaction. A "B" indicates transportation by an interstate pipeline on behalf of an intrastate pipeline or a local distribution company pursuant to § 284.102 of the Commission's Regulations and section 311(a)(1) of the NGPA.

A "C" indicates transportation by an intrastate pipeline on behalf of an interstate pipeline or a local distribution company served by an interstate pipeline pursuant to § 284.122 of the Commission's Regulations and section 311(a)(2) of the NGPA. In those cases where Commission approval of a transportation rate is sought pursuant to § 284.123(b)(2), the table lists the proposed rate and the expiration date of the 150-day period for staff action. Any person seeking to participate in the proceeding to approve a rate listed in the table should file a motion to intervene with the Secretary of the Commission on or before May 1, 1989.

A "D" indicates a sale by an intrastate pipeline to an interstate pipeline or a local distribution company served by an interstate pipeline pursuant to § 284.142 of the Commission's Regulations and section 311(b) of the NGPA. Any interested person may file a complaint concerning such sales pursuant to § 284.147(d) of the Commission's Regulations.

An "E" indicates an assignment by an intrastate pipeline to any interstate pipeline or local distribution company pursuant to Section 284.163 of the Commission's Regulations and section 312 of the NGPA.

[1] Notice of a transaction does not constitute a determination that the terms and conditions of the proposed service will be approved or that the noticed filing is in compliance with the Commission's Regulations.

A "G" indicates transportation by an interstate pipeline on behalf of another interstate pipeline pursuant to § 284.222 and a blanket certificate issued under § 284.221 of the Commission's Regulations.

A "G(LT)" or "G(LS)" indicates transportation, sales or assignments by a local distribution company on behalf of or to an interstate pipeline or local distribution company pursuant to a blanket certificate issued under § 284.224 of the Commission's Regulations.

A "G(HT)" or "G(HS)" indicates transportation, sales or assignments by a Hinshaw Pipeline pursuant to a blanket certificate issued under §§ 284.224 of the Commission's Regulations.

Lois D. Cashell,

Secretary.

Docket No.[1]	Transporter/Seller	Recipient	Date filed	Subpart	Expiration date [2]	Transportation rate (cents/MMBTU)
ST89-1541	Southern Natural Gas Co	United Cities Gas Co	01-03-89	B		
ST89-1542	Southern Natural Gas Co	Sonat Marketing Co	01-03-89	G-S		
ST89-1543	Southern Natural Gas Co	Rangeline Corp	01-03-89	G-S		
ST89-1544	Southern Natural Gas Co	Atlanta Gas Light Co	01-03-89	B		
ST89-1545	Southern Natural Gas Co	Arco Oil & Gas Co	01-03-89	G-S		
ST89-1546	Southern Natural Gas Co	TXG Gas Marketing Co	01-03-89	G-S		
ST89-1547	Southern Natural Gas Co	Sonat Marketing Co	01-03-89	G-S		
ST89-1548	Southern Natural Gas Co	Sonat Marketing Co	01-03-89	G-S		
ST89-1549	Southern Natural Gas Co	South Carolina Pipeline Corp	01-03-89	B		
ST89-1550	Southern Natural Gas Co	South Carolina Pipeline Corp	01-03-89	B		
ST89-1551	Southern Natural Gas Co	Access Energy Corp	01-03-89	B		
ST89-1552	Southern Natural Gas Co	ANR Pipeline Co	01-03-89	G		
ST89-1553	Southern Natural Gas Co	Tejas Power Corp	01-03-89	G-S		
ST89-1554	Southern Natural Gas Co	Chevron U.S.A., Inc	01-03-89	G-S		
ST89-1555	Southern Natural Gas Co	Transcontinental Gas Pipe Line Corp	01-03-89	G		
ST89-1556	Southern Natural Gas Co	Transcontinental Gas Pipe Line Corp	01-03-89	G		
ST89-1557	Southern Natural Gas Co	ANR Pipeline Co	01-03-89	G		
ST89-1558	Southern Natural Gas Co	Transcontinental Gas Pipe Line Corp	01-03-89	G		
ST89-1559	Southern Natural Gas Co	Transcontinental Gas Pipe Line Corp	01-03-89	G		
ST89-1560	Louisiana Intrastate Gas Corp	ANR Pipeline Co	01-03-89	C	06-02-89	27.44
ST89-1561	Louisiana Intrastate Gas Corp	Columbia Gulf Transmission Co., et al	01-03-89	C	06-02-89	7.50
ST89-1562	Texas Eastern Transmission Corp	Pontchartrain Natural Gas System	01-03-89	B		
ST89-1563	Texas Eastern Transmission Corp	Pontchartrain Natural Gas System	01-03-89	B		
ST89-1564	Williams Natural Gas Co	Peoples Natural Gas Co	01-03-89	B		
ST89-1565	Williams Natural Gas Co	Enmark Gas Corp	01-03-89	G-S		
ST89-1566	Williams Natural Gas Co	Reliance Pipeline Co	01-03-89	B		
ST89-1567	Northwest Pipeline Corp	Questar Pipeline Co	01-03-89	G		
ST89-1568	Northwest Pipeline Corp	Questar Pipeline Co	01-03-89	G-S		
ST89-1569	Sabine Pipe Line Co	Bayou Industrial Gas Co	01-04-89	B		
ST89-1570	Sabine Pipe Line Co	West Ohio Gas Co	01-04-89	B		
ST89-1571	Williams Natural Gas Co	Quaker Oats Co	01-04-89	G-S		
ST89-1572	Texas Eastern Transmission Corp	Channel Industries Gas Co	01-04-89	B		
ST89-1573	Panhandle Eastern Pipe Line Co	Mountain Iron & Supply Co	01-04-89	G-S		
ST89-1574	Trunkline Gas Co	Northern Indiana Public Service Co	01-04-89	B		
ST89-1575	Trunkline Gas Co	Unicorp Energy, Inc	01-04-89	G-S		
ST89-1576	Columbia Gas Transmission Corp	Fort Hill Natural Gas Authority	01-04-89	B		
ST89-1577	Columbia Gas Transmission Corp	West Millgrove Gas Co	01-04-89	B		
ST89-1578	Transcontinental Gas Pipe Line Corp	Kerr-McGee Corp	01-05-89	G-S		
ST89-1579	Transcontinental Gas Pipe Line Corp	City of Bainbridge	01-05-89	B		
ST89-1580	Panhandle Eastern Pipe Line Co	City of Shelbina	01-05-89	B		
ST89-1581	Panhandle Eastern Pipe Line Co	Citizens Gas and Coke Utility	01-05-89	B		
ST89-1582	Panhandle Eastern Pipe Line Co	Central Illinois Light Co	01-05-89	B		
ST89-1583	Panhandle Eastern Pipe Line Co	Southeastern Michigan Gas Co	01-05-89	B		
ST89-1584	Panhandle Eastern Pipe Line Co	Phenix Transmission Co	01-05-89	B		
ST89-1585	Transok, Inc	Williams Natural Gas Co	01-05-89	C	06-04-89	32.50
ST89-1586	Transok, Inc	Williams Natural Gas Co	01-05-89	C	06-04-89	32.50
ST89-1587	Transok, Inc	Panhandle Eastern Pipe Line Co	01-05-89	C	06-04-89	32.50
ST89-1588	Transok, Inc	Panhandle Eastern Pipe Line Co	01-05-89	C	06-04-89	32.50
ST89-1589	Transcontinental Gas Pipe Line Corp	Brooklyn Union Gas Co	01-05-89	B		
ST89-1590	Transcontinental Gas Pipe Line Corp	Baltimore Gas and Electric Co	01-05-89	B		
ST89-1591	Transcontinental Gas Pipe Line Corp	Piedmont Natural Gas Co	01-05-89	B		
ST89-1592	Trunkline Gas Co	Southern Natural Gas Co	01-05-89	G		
ST89-1593	Trunkline Gas Co	Central Illinois Public Service Co	01-05-89	B		
ST89-1594	Trunkline Gas Co	Kokomo Gas and Fuel Co	01-05-89	B		
ST89-1595	United Gas Pipe Line Co	Arkla Energy Marketing	01-05-89	G-S		
ST89-1596	Natural Gas Pipeline Co of America	Northern Illinois Gas Co	01-05-89	B		
ST89-1597	Northwest Pipeline Corp	Natural Gas Clearinghouse, Inc	01-05-89	G-S		
ST89-1598	El Paso Natural Gas Co	Williams Gas Co	01-05-89	B		
ST89-1599	Tennessee Gas Pipeline Co	Southern Connecticut Gas Co	01-05-89	B		
ST89-1600	Tennessee Gas Pipeline Co	Commonwealth Gas Co	01-05-89	B		
ST89-1601	Tennessee Gas Pipeline Co	Pennsylvania Gas and Water Co	01-05-89	B		
ST89-1602	Tennessee Gas Pipeline Co	Tenngasco Corp	01-05-89	G-S		
ST89-1603	Tennessee Gas Pipeline Co	Connecticut Natural Gas Corp	01-05-89	B		
ST89-1604	Tennessee Gas Pipeline Co	Colonial Gas Corp	01-05-89	B		

Docket No.[1]	Transporter/Seller	Recipient	Date filed	Subpart	Expiration date [2]	Transportation rate (cents/MMBTU)
ST89-1605	Tennessee Gas Pipeline Co	Public Service Electric and Gas Co	01-05-89	B		
ST89-1606	Tennessee Gas Pipeline Co	T. W. Phillips Gas & Oil Co	01-05-89	B		
ST89-1607	Tennessee Gas Pipeline Co	Connecticut Light & Power Co	01-05-89	B		
ST89-1608	Exxon Gas System, Inc	Texas Eastern Gas Pipeline Co	01-06-89	C	06-05-89	12.80
ST89-1609	ONG Transmission Co	East Ohio Gas Co	01-06-89	C	06-05-89	24.32
ST89-1610	Natural Gas Pipeline Co of America	Anadarko Trading Co	01-06-89	G-S		
ST89-1611	Natural Gas Pipeline Co of America	Golden Gas Energies, Inc	01-06-89	B		
ST89-1612	Natural Gas Pipeline Co of America	Valero Interstate Transmission Co	01-06-89	G		
ST89-1613	Natural Gas Pipeline Co of America	Wisconsin Natural Gas Co	01-06-89	B		
ST89-1614	Moraine Pipeline Co	National Energy System, Inc	01-06-89	G-S		
ST89-1615	BP Gas Transmission Co	ANR Pipeline Co., et al	01-06-89	C	06-05-89	13.70
ST89-1616	Channel Industries Gas Co	Tennessee Gas Pipeline Co	01-06-89	C		
ST89-1617	Channel Industries Gas Co	Texas Eastern Transmission Co., et al	01-06-89	C		
ST89-1618	Northwest Pipeline Corp	Oregon Steel Mills, Inc	01-06-89	G-S		
ST89-1619	Texas Eastern Transmission Corp	Michigan Consolidated Gas Co	01-06-89	B		
ST89-1620	Texas Eastern Transmission Corp	City of Bessemer City	01-06-89	B		
ST89-1621	Williams Natural Gas Co	Phillips 66 Natural Gas Co	01-06-89	G-S		
ST89-1622	Williams Natural Gas Co	Zenith Natural Gas Co	01-06-89	G		
ST89-1623	Transok, Inc	Williams Natural Gas Co	01-09-89	C	06-08-89	32.50
ST89-1624	Valero Transmission, L.P	Tennessee Gas Pipeline Co	01-09-89	C		
ST89-1625	Transcontinental Gas Pipe Line Corp	Access Energy Pipeline Co	01-09-89	B		
ST89-1626	Transcontinental Gas Pipe Line Corp	Access Energy Corp	01-09-89	G-S		
ST89-1627	Transcontinental Gas Pipe Line Corp	Access Energy Pipeline Co	01-09-89	B		
ST89-1628	Transcontinental Gas Pipe Line Corp	Texaco Gas Marketing, Inc	01-09-89	G-S		
ST89-1629	Transcontinental Gas Pipe Line Corp	Access Energy Pipeline Co	01-09-89	B		
ST89-1630	Transcontinental Gas Pipe Line Corp	Eastern Shore Natural Gas Co	01-09-89	G		
ST89-1631	Transcontinental Gas Pipe Line Corp	East Central Alabama Gas District	01-09-89	B		
ST89-1632	Panhandle Eastern Pipe Line Co	AMGAS, Inc	01-09-89	G-S		
ST89-1633	Panhandle Eastern Pipe Line Co	Mountain Iron & Supply Co	01-09-89	G-S		
ST89-1634	Panhandle Eastern Pipe Line Co	Northern Indiana Fuel & Light Co	01-09-89	B		
ST89-1635	Panhandle Eastern Pipe Line Co	AMGAS, Inc	01-09-89	G-S		
ST89-1636	Panhandle Eastern Pipe Line Co	AMGAS, Inc	01-09-89	G-S		
ST89-1637	Natural Gas Pipeline Co of America	Rangeline Corp	01-09-89	G-S		
ST89-1638	Natural Gas Pipeline Co of America	Tennessee Gas Pipeline Co	01-09-89	G		
ST89-1639	Natural Gas Pipeline Co. of America	Transamerican Gas Transmission Corp	01-09-89	B		
ST89-1640	Natural Gas Pipeline Co. of America	Peoples Gas Light & Coke Co	01-09-89	B		
ST89-1641	Natural Gas Pipeline Co. of America	EP Operating Co	01-09-89	G-S		
ST89-1642	Natural Gas Pipeline Co. of America	Mitchell Energy Corp	01-09-89	G-S		
ST89-1643	Delhi Gas Pipeline Corp	Northern Natural Gas Co	01-09-89	C	06-08-89	35.00
ST89-1644	Arkla Energy Resources	Northern Intrastate Pipeline Co	01-09-89	B		
ST89-1645	Texas Eastern Transmission Corp	Houston Pipe Line Co	01-09-89	B		
ST89-1646	Northern Natural Gas Co	Circle Pines Utilities	01-09-89	B		
ST89-1647	Northern Natural Gas Co	American Central Gas Marketing Co	01-09-89	G-S		
ST89-1648	Columbia Gulf Transmission Co	Public Service Electric and Gas Co	01-09-89	B		
ST89-1649	Columbia Gulf Transmission Co	United Cities Gas Co	01-09-89	B		
ST89-1650	Williams Natural Gas Co	End Users Supply System	01-09-89	G-S		
ST89-1651	Williams Natural Gas Co	Lawrence Memorial Hospital	01-09-89	G-S		
ST89-1652	Williams Natural Gas Co	KPL Gas Service Co	01-09-89	B		
ST89-1653	Williams Natural Gas Co	Golden Gas Energies, Inc	01-09-89	B		
ST89-1654	Williams Natural Gas Co	Union Pacific Resources Co	01-09-89	G-S		
ST89-1655	Williams Natural Gas Co	Rangeline Corp	01-09-89	G-S		
ST89-1656	Northwest Pipeline Corp	NGC Energy Company	01-09-89	G-S		
ST89-1657	Northwest Pipeline Corp	Eagle-Picher Minerals, Inc	01-09-89	G-S		
ST89-1658	Northwest Pipeline Corp	United Engine & Machine Co	01-09-89	G-S		
ST89-1659	Tennessee Gas Pipeline Co	Texas Southwestern Gas Co	01-09-89	B		
ST89-1660	ANR Pipeline Co	Coastal Gas Marketing Co	01-10-89	G-S		
ST89-1661	ANR Pipeline Co	General Motors Corp	01-10-89	G-S		
ST89-1662	ANR Pipeline Co	National Energy Systems, Inc	01-10-89	G-S		
ST89-1663	ANR Pipeline Co	City of Princeton	01-10-89	B		
ST89-1664	ANR Pipeline Co	Consumers Power Co	01-10-89	B		
ST89-1665	ANR Pipeline Co	BP Gas Transmission Co	01-10-89	B		
ST89-1666	ANR Pipeline Co	Western Gas Processors	01-10-89	G-		
ST89-1667	ANR Pipeline Co	Peoples Natural Gas Co	01-10-89	B		
ST89-1668	ANR Pipeline Co	Michigan Consolidated Gas Co	01-10-89	B		
ST89-1669	ANR Pipeline Co	Apache Transmission Corp	01-10-89	B		
ST89-1670	Texas Eastern Transmission Corp	Delhi Gas Pipeline Corp	01-10-89	B		
ST89-1671	Texas Eastern Transmission Corp	Entex, Inc	01-10-89	B		
ST89-1672	Algonquin Gas Transmission Co	Boston Gas Co	01-10-89	B		
ST89-1673	Algonquin Gas Transmission Co	North Attleboro Gas Co	01-10-89	B		
ST89-1674	Algonquin Gas Transmission Co	Colonial Gas Company	01-10-89	B		
ST89-1675	Algonquin Gas Transmission Co	Piedmont Natural Gas Co	01-10-89	B		
ST89-1676	Columbia Gulf Transmission Co	Virginia Natural Gas Co	01-10-89	B		
ST89-1677	Natural Gas Pipeline Co. of America	Iowa Southern Utilities Co	01-10-89	B		
ST89-1678	Tennessee Gas Pipeline Co	CNG Transmission Corp	01-10-89	G		
ST89-1679	Williams Natural Gas Co	Missouri Public Service Co	01-10-89	B		
ST89-1680	Williams Natural Gas Co	Amoco Energy Trading Corp	01-10-89	G-S		

Docket No.[1]	Transporter/Seller	Recipient	Date filed	Subpart	Expiration date [2]	Transportation rate (cents/MMBTU)
ST89-1681	Williams Natural Gas Co	AG Processing, Inc	01-10-89	G-S		
ST89-1682	Williams Natural Gas Co	Pawnee Pipeline & Marketing Co	01-10-89	G-S		
ST89-1683	ONG Transmission Co	Panhandle Eastern Pipe Line Co	01-11-89	C	06-10-89	24.32
ST89-1684	CNG Transmission Corp	Columbia Gas of Ohio, Inc	01-11-89	B		
ST89-1685	CNG Transmission Corp	Chemtech Industries	01-11-89	G-S		
ST89-1686	CNG Transmission Corp	Phoenix Diversified Ventures, Inc	01-11-89	G-S		
ST89-1687	CNG Transmission Corp	Rochester Gas & Electric Corp	01-11-89	B		
ST89-1688	CNG Transmission Corp	Rochester Gas & Electric Corp	01-11-89	B		
ST89-1689	CNG Transmission Corp	Rochester Gas & Electric Corp	01-11-89	B		
ST89-1690	CNG Transmission Corp	Appalachian Gas Sales, Inc	01-11-89	G-S		
ST89-1691	CNG Transmission Corp	Baltimore Gas and Electric Co	01-11-89	B		
ST89-1692	CNG Transmission Corp	Pentex Petroleum, Inc	01-11-89	G-S		
ST89-1693	CNG Transmission Corp	Peoples Natural Gas Co	01-11-89	B		
ST89-1694	CNG Transmission Corp	North Atlantic Utilities, Inc	01-11-89	G-S		
ST89-1695	CNG Transmission Corp	Columbia Gas of Pennsylvania, Inc	01-11-89	B		
ST89-1696	Transcontinental Gas Pipe Line Corp	United Cities Gas Co	01-11-89	B		
ST89-1697	Transcontinental Gas Pipe Line Corp	Mid Louisiana Gas Co	01-11-89	G		
ST89-1698	Transcontinental Gas Pipe Line Corp	Fort Hill Natural Gas Authority	01-11-89	B		
ST89-1699	United Gas Pipe Line Co	Entrade Corp	01-11-89	G-S		
ST89-1700	ANR Pipeline Co	Western Kentucky Gas Co	01-11-89	B		
ST89-1701	Exxon Gas System, Inc	Sabine Pipeline Co., et al	01-11-89	C	06-10-89	12.80
ST89-1702	Williams Natural Gas Co	Entrade Corp	01-11-89	G-S		
ST89-1703	Tennessee Gas Pipeline Co	Pontchartrain Natural Gas System	01-11-89	B		
ST89-1704	Tennessee Gas Pipeline Co	Granite State Gas Transmission, Inc	01-11-89	G		
ST89-1705	Tennessee Gas Pipeline Co	National Fuel Gas Supply Corp	01-11-89	G		
ST89-1706	Channel Industries Gas Co	Tennessee Gas Pipeline Co., et al	01-12-89	C		
ST89-1707	Louisiana Intrastate Gas Corp	Tuscaloosa Pipeline Co	01-12-89	C	06-11-89	27.44
ST89-1708	Louisiana Intrastate Gas Corp	Tennessee Gas Pipeline Co	01-12-89	C	06-11-89	27.44
ST89-1709	Tennessee Gas Pipeline Co	Equitrans, Inc	01-12-89	G		
ST89-1710	Tennessee Gas Pipeline Co	Olympic Gas Pipeline	01-12-89	B		
ST89-1711	Tennessee Gas Pipeline Co	Superior Natural Gas Corp	01-12-89	G-S		
ST89-1712	Columbia Gas Transmission Corp	East Tennessee Natural Gas Co	01-12-89	G		
ST89-1713	Natural Gas Pipeline Co. of America	North Shore Gas Co	01-12-89	B		
ST89-1714	Natural Gas Pipeline Co. of America	Peoples Gas Light & Coke Co	01-12-89	B		
ST89-1715	Natural Gas Pipeline Co. of America	Northern Illinois Gas Co	01-12-89	B		
ST89-1716	Texas Gas Transmission Corp	Eastern Shore Natural Gas Co	01-12-89	G		
ST89-1717	Texas Gas Transmission Corp	General Motors Corp	01-12-89	G-S		
ST89-1718	Texas Gas Transmission Corp	Niagara Mohawk Power Corp	01-12-89	B		
ST89-1719	Texas Gas Transmission Corp	City of Covington	01-12-89	B		
ST89-1720	Texas Gas Transmission Corp	Hadson Gas Systems, Inc	01-12-89	G-S		
ST89-1721	Texas Gas Transmission Corp	Memphis Light, Gas and Water Division	01-12-89	B		
ST89-1722	Texas Gas Transmission Corp	City of Hamilton	01-12-89	B		
ST89-1723	Colorado Interstate Gas Co	Amoco Gas Co	01-12-89	B		
ST89-1724	Northern Natural Gas Co	Minnegasco, Inc	01-11-89	B		
ST89-1725	Natural Gas Pipeline Co. of America	Cornerstone Production Corp	01-13-89	G-S		
ST89-1726	Natural Gas Pipeline Co. of America	International Paper Co	01-13-89	G-S		
ST89-1727	Natural Gas Pipeline Co. of America	Associated Intrasite Pipeline Co	01-13-89	B		
ST89-1728	Tennessee Gas Pipeline Co	East Ohio Gas Co	01-13-89	B		
ST89-1729	Equitrans, Inc	O & R Energy Development, Inc	01-13-89	G-S		
ST89-1730	Equitrans, Inc	St. Francis Hospital & Medical Center	01-13-89	G-S		
ST89-1731	Equitrans, Inc	Mallet & Company, Inc	01-13-89	G-S		
ST89-1732	Equitrans, Inc	Access Energy Corp	01-13-89	G-S		
ST89-1733	Transcontinental Gas Pipe Line Corp	Transco Energy Marketing	01-13-89	G-S		
ST89-1734	Williams Natural Gas Co	Mountain Iron & Supply Co	01-13-89	G-S		
ST89-1735	Equitrans, Inc	O & R Energy Development, Inc	01-13-89	G-S		
ST89-1736	Williams Natural Gas Co	Reliance Pipeline Co	01-13-89	B		
ST89-1737	United Gas Pipe Line Co	Sonat Marketing Co	01-13-89	G-S		
ST89-1738	United Gas Pipe Line Co	Laser Marketing Co	01-13-89	G-S		
ST89-1739	United Gas Pipe Line Co	Sonat Marketing Co	01-13-89	G-S		
ST89-1740	United Gas Pipe Line Co	Texaco Gas Marketing, Inc	01-13-89	G-S		
ST89-1741	United Gas Pipe Line Co	Union Texas Petroleum Corp	01-13-89	G-S		
ST89-1742	United Gas Pipe Line Co	Louisiana State Gas Corp	01-13-89	G-S		
ST89-1743	United Gas Pipe Line Co	Texaco Gas Marketing, Inc	01-13-89	G-S		
ST89-1744	United Gas Pipe Line Co	Texaco Gas Marketing, Inc	01-13-89	G-S		
ST89-1745	Natural Gas Pipeline Co. of America	Southern California Gas Co	01-17-89	B		
ST89-1746	Palo Duro Pipeline Co., Inc	Natural Gas Pipeline Co. of America, et al	01-17-89	C		
ST89-1747	United Texas Transmission Co	United Gas Pipe Line Co., et al	01-17-89	C		
ST89-1748	United Texas Transmission Co	United Gas Pipe Line Co	01-17-89	C		
ST89-1749	Transcontinental Gas Pipe Line Corp	Columbia Gas Transmission Corp	01-17-89	G		
ST89-1750	Transcontinental Gas Pipe Line Corp	Amoco Production Co	01-17-89	G-S		
ST89-1751	Ong Transmission Co	Williams Natural Gas Co	01-17-89	C	06-16-89	24.32
ST89-1752	Valero Transmission, L.P	Valero Interstate Transmission Co	01-17-89	C		
ST89-1753	El Paso Natural Gas Co	MGTC, Inc	01-19-89	B		
ST89-1754	El Paso Natural Gas Co	Petrus Oil Co., L.P	01-19-89	G-S		
ST89-1755	Transcontinental Gas Pipe Line Corp	Public Service Electric and Gas Co	01-17-89	B		
ST89-1756	Questar Pipeline Co	Westinghouse Electric Corp	01-17-89	G-S		

Docket No.[1]	Transporter/Seller	Recipient	Date filed	Subpart	Expiration date [2]	Transportation rate (cents/MMBTU)
ST89-1757	Northern Natural Gas Co	Natural Gas Inc	01-17-89	B		
ST89-1758	Northern Natural Gas Co	Iowa-Illinois Gas & Electric Co	01-17-89	B		
ST89-1759	Northern Natural Gas Co	Chevron U.S.A., Inc	01-17-89	G-S		
ST89-1760	Northern Natural Gas Co	Trinity Pipeline, Inc	01-17-89	G-S		
ST89-1761	Northern Natural Gas Co	Colony Pipeline Corp	01-17-89	B		
ST89-1762	Natural Gas Pipeline Co. of America	Midcon Marketing	01-17-89	G-S		
ST89-1763	Natural Gas Pipeline Co. of America	Mitchell Marketing Co	01-17-89	G-S		
ST89-1764	Natural Gas Pipeline Co. of America	Cincinnati Gas and Electric Co	01-17-89	B		
ST89-1765	Natural Gas Pipeline Co. of America	Northern Illinois Gas Co	01-17-89	B		
ST89-1766	Northwest Pipeline Corp	Jerome P. McHugh and Associates	01-17-89	G-S		
ST89-1767	Northwest Pipeline Corp	Grand Valley Gas Co	01-17-89	G-S		
ST89-1768	Southern Natural Gas Co	Sonat Marketing Co	01-17-89	G-S		
ST89-1769	Southern Natural Gas Co	Sonat Marketing Co	01-17-89	G-S		
ST89-1770	Southern Natural Gas Co	South Georgia Natural Gas Co	01-17-89	G-S		
ST89-1771	Southern Natural Gas Co	South Georgia Natural Gas Co	01-17-89	G-S		
ST89-1772	Southern Natural Gas Co	South Georgia Natural Gas Co	01-17-89	G-S		
ST89-1773	Southern Natural Gas Co	South Georgia Natural Gas Co	01-17-89	G-S		
ST89-1774	Valero Interstate Transmission Co	Valero Transmission, L.P.	01-17-89	B		
ST89-1775	Louisiana Intrastate Gas Corp	Tennessee Gas Pipeline Co	01-17-89	C	06-16-89	27.44
ST89-1776	Louisiana Intrastate Gas Corp	Columbia Gulf Transmission Co	01-17-89	C	06-16-89	27.44
ST89-1777	Louisiana Intrastate Gas Corp	Southern Natural Gas Co	01-17-89	C	06-16-89	27.44
ST89-1778	Tennessee Gas Pipeline Co	Nashville Gas Co	01-17-89	B		
ST89-1779	Tennessee Gas Pipeline Co	Baltimore Gas and Elect. Co., et al	01-17-89	B		
ST89-1780	Trnasok, Inc	Natural Gas Pipeline Co. of America	01-17-89	C	06-16-89	32.50
ST89-1781	United Gas Pipe Line Co	City of Gulf Breeze	01-17-89	G-S		
ST89-1782	Transcontinental Gas Pipe Line Corp	Alabama Gas Corp	01-18-89	B		
ST89-1783	Trunkline Gas Co	Gastrak Corp	01-18-89	G-S		
ST89-1784	Williston Basin Interstate P/L Co	Montana-Dakota Utilities Co	01-17-89	B		
ST89-1785	Williston Basin Interstate P/L Co	Montana-Dakota Utilities Co	01-17-89	B		
ST89-1786	Williston Basin Interstate P/L Co	Wyoming Gas Co	01-17-89	B		
ST89-1787	Williston Basin Interstate P/L Co	Montana-Dakota Utilities Co	01-17-89	B		
ST89-1788	Williston Basin Interstate P/L Co	Northwestern Public Service Co	01-17-89	B		
ST89-1789	Williston Basin Interstate P/L Co	Cody Gas Co., et al	01-17-89	B		
ST89-1790	Natural Gas Pipeline Co. of America	Cepex, Inc	01-18-89	G-S		
ST89-1791	Ong Transmission Co	Williams Natural Gas Co	01-18-89	C	06-17-89	24.32
ST89-1792	Ong Transmission Co	Panhandle Eastern Pipe Line Co	01-18-89	C	06-17-89	24.32
ST89-1793	Ong Transmission Co	Panhandle Eastern Pipe Line Co	01-18-89	C	06-17-89	24.32
ST89-1794	Ong Transmission Co	Northern Natural Gas Co	01-18-89	C	06-17-89	24.32
ST89-1795	Ong Transmission Co	Natural Gas Pipeline Co. of America	01-18-89	C	06-17-89	24.32
ST89-1796	Ong Transmission Co	Valero Interstate Transmission Co	01-18-89	C	06-17-89	24.32
ST89-1797	Ong Transmission Co	Northern Natural Gas Co	01-18-89	C	06-17-89	24.32
ST89-1798	United Gas Pipe Line Co	Lone Star Gas Co. of Texas, Inc	01-18-89	B		
ST89-1799	United Gas Pipe Line Co	Laser Marketing Co	01-18-89	G-S		
ST89-1800	Trunkline Gas Co	Hadson Gas Systems, Inc	01-18-89	G-S		
ST89-1801	BP Gas Transmission Co	ANR Pipeline Co., et al	01-18-89	C	06-17-89	13.70
ST89-1802	Cabot Pipeline Corp	Cabot Gas Supply Corp	01-19-89	C	06-17-89	00.38
ST89-1803	Cabot Gas Supply Corp	Neches Gas Distribution Co	01-19-89	C		
ST89-1804	Caprock Pipeline Co	Cabot Gas Supply Corp	01-19-89	B		
ST89-1805	Valero Transmission, L.P	Northern Natural Gas Co	01-19-89	C		
ST89-1806	BP Gas Transmission Co	ANR Pipeline Co., et al	01-19-89	C	06-18-89	13.70
ST89-1807	Williams Natural Gas Co	Lakeview Village	01-18-89	G-S		
ST89-1808	Equitrans, Inc	Quality Rolls, Inc	01-19-89	G-S		
ST89-1809	Delhi Gas Pipeline Corp	Texas Gas Transmission Corp	01-19-89	C		
ST89-1810	Delhi Gas Pipeline Corp	Southern California Gas Co	01-19-89	C	06-18-89	35.00
ST89-1811	Paiute Pipeline Co	Southwest Gas Corporation-Northern NV	01-19-89	G-S		
ST89-1812	Paiute Pipeline Co	Southwest Gas Corporation-Northern CA	01-19-89	G-S		
ST89-1813	Paiute Pipeline Co	Nevada Cement Company	01-19-89	G-S		
ST89-1814	Natural Gas Pipeline Co. of America	Nicor Exploration Co	01-19-89	G-S		
ST89-1815	Ong Transmission Co	Northern Natural Gas Co	01-19-89	C	06-18-89	24.32
ST89-1816	Ong Transmission Co	Williams Natural Gas Co	01-19-89	C	06-18-89	24.32
ST89-1817	Ong Transmission Co	Natural Gas Pipeline Co. of America	01-19-89	C	06-18-89	24.32
ST89-1818	Ong Transmission Co	Panhandle Eastern Pipe Line Co	01-19-89	C	06-18-89	24.32
ST89-1819	Texas Gas Transmission Corp	Bethlehem Steel Corp	01-19-89	G-S		
ST89-1820	Texas Gas Transmission Corp	Total Minatome Corp	01-19-89	G-S		
ST89-1821	Texas Gas Transmission Corp	Natural Gas Clearinghouse, Inc	01-19-89	G-S		
ST89-1822	Texas Gas Transmission Corp	Energy Marketing Services, Inc	01-19-89	G-S		
ST89-1823	Texas Gas Transmission Corp	Kogas Inc	01-19-89	G-S		
ST89-1824	United Texas Transmission Co	Tennessee Gas Pipeline Co., et al	01-23-89	C		
ST89-1825	United Texas Transmission Co	United Gas Pipe Line Co., ete al	01-23-89	C		
ST89-1826	United Texas Transmission Co	United Gas Pipe Line Co	01-23-89	C		
ST89-1827	Natural Gas Pipeline Co. of America	Central Illinois Light Co	01-23-89	B		
ST89-1828	Natural Gas Pipeline Co. of America	Neches Gas Distribution Co	01-23-89	B		
ST89-1829	Natural Gas Pipeline Co. of America	Northern Illinois Gas Co	01-23-89	B		
ST89-1830	Natural Gas Pipeline Co. of America	Apache Corp	01-23-89	G-S		
ST89-1831	Phillips Gas Pipeline Co	Phillips Natural Gas Co	01-23-89	B		
ST89-1832	Panhandle Eastern Pipe Line Co	O.I. Brockway Glass, Inc	01-23-89	G-S		

Docket No.[1]	Transporter/Seller	Recipient	Date filed	Subpart	Expiration date [2]	Transportation rate (cents/MMBTU)
ST89-1833	Panhandle Eastern Pipe Line Co.	Indiana Gas Co.	01-23-89	G-S		
ST89-1834	Panhandle Eastern Pipe Line co	Teepak, Inc.	01-23-89	G-S		
ST89-1835	Trunkline Gas Co.	Central Illinois Light Co.	01-23-89	B		
ST89-1836	Trunkline Gas Co.	Richmond Gas Corp.	01-23-89	B		
ST89-1837	Trunkline Gas Co.	Central Illinois Light Co.	01-23-89	B		
ST89-1838	Trunkline Gas Co.	Great River Gas Co.	01-23-89	B		
ST89-1839	Trunkline Gas Co.	Union Electric Co.	01-23-89	B		
ST89-1840	Trunkline Gas Co.	Central Illinois Light Co.	01-23-89	B		
ST89-1841	Trunkline Gas Co.	Seagull Marketing Services, Inc.	01-23-89	G-S		
ST89-1842	Trunkline Gas Co.	Central Illinois Light Co.	01-23-89	B		
ST89-1843	Trunkline Gas Co.	Louisiana Gas System, Inc.	01-23-89	B		
ST89-1844	Trunkline Gas Co.	Ohio Valley Gas Corp.	01-23-89	B		
ST89-1845	Trunkline Gas Co.	Central Illinois Light Co.	01-23-89	B		
ST89-1846	Trunkline Gas Co.	Central Illinois Light Co.	01-23-89	B		
ST89-1847	Trunkline Gas Co.	Central Illinois Light Co.	01-23-89	B		
ST89-1848	Northern Natural Gas Co.	Colony Pipeline Corp.	01-23-89	B		
ST89-1849	Northern Natural Gas Co.	PSI, Inc.	01-23-89	G-S		
ST89-1850	Northern Natural Gas Co.	West Texas Gas Utilities	01-23-89	B		
ST89-1851	Northern Natural Gas Co.	Enron Gas Processing Company	01-23-89	B		
ST89-1852	Northern Natural Gas Co.	Sonat Marketing Co.	01-23-89	G-S		
ST89-1853	Northern Natural Gas Co.	Peninsular Gas Co.	01-23-89	B		
ST89-1854	Northern Natural Gas Co.	Iowa Public Service Co.	01-23-89	B		
ST89-1855	Northern Natural Gas Co.	Transcontinental Gas Pipe Line Corp.	01-23-89	G		
ST89-1856	Northern Natural Gas Co.	Iowa Southern Utilities Co.	01-23-89	B		
ST89-1857	Northern Natural Gas Co.	Iowa Electric Light & Power Co.	01-23-89	B		
ST89-1858	Northern Natural Gas Co.	Sonat Marketing Co.	01-23-89	G-S		
ST89-1859	Enogex Inc.	Northern Natural Gas Co.	01-17-89	C	06-16-89	28.50
ST89-1860	Enogex Inc.	Northern Natural Gas Co.	01-17-89	C	06-16-89	28.50
ST89-1861	Enogex Inc.	Phillips Gas Pipeline Co.	01-17-89	C	06-16-89	28.50
ST89-1862	Enogex Inc.	Phillips Gas Pipeline Co.	01-17-89	C	06-16-89	28.50
ST89-1863	Enogex Inc.	Phillips Gas Pipeline Co.	01-17-89	C	06-16-89	28.50
ST89-1864	Enogex Inc.	Natural Gas Pipeline Co. of America	01-17-89	C	06-16-89	28.50
ST89-1865	Transwestern Pipeline Co.	Chevron U.S.A., Inc.	01-23-89	G-S		
ST89-1866	Columbia Gas Transmission Corp.	National Gas and Oil Corp.	01-23-89	B		
ST89-1867	Colorado Interstate Gas Co.	Public Service Co. of Colorado	01-23-89	B		
ST89-1868	Williams Natural Gas Co.	Northeast Oklahoma Public Facil. Auth.	01-23-89	G-S		
ST89-1869	Williams Natural Gas Co.	Reliance Pipeline Co.	01-23-89	B		
ST89-1870	Columbia Gulf Transmission Co.	Mountaineer Gas Co.	01-23-89	B		
ST89-1871	Columbia Gulf Transmission Co.	Washington Gas Light Co.	01-23-89	B		
ST89-1872	United Gas Pipe Line Co.	Eagle Natural Gas Co.	01-23-89	G-S		
ST89-1873	United Gas Pipe Line Co.	Enron Gas Marketing, Inc.	01-23-89	G-S		
ST89-1874	United Gas Pipe Line Co.	Alabama Gas Corp., et al.	01-23-89	B		
ST89-1875	Texas Eastern Transmission Corp.	Public Service Electric and Gas Co.	01-23-89	B		
ST89-1876	Texas Eastern Transmission Corp.	Southern Gas Co.	01-23-89	B		
ST89-1877	Texas Eastern Transmission Corp.	Endevco Pipeline Co.	01-23-89	B		
ST89-1878	Texas Eastern Transmission Corp.	Columbia Gas of Kentucky, Inc.	01-23-89	B		
ST89-1879	Texas Eastern Transmission Corp.	City of Lafayette	01-23-89	B		
ST89-1880	Texas Eastern Transmission Corp.	City of Loretto	01-23-89	B		
ST89-1881	Tennessee Gas Pipeline Co.	Creole Gas Pipeline Corp.	01-23-89	B		
ST89-1882	Tennessee Gas Pipeline Co.	North Alabama Gas District	01-23-89	B		
ST89-1883	Tennessee Gas Pipeline Co.	Western Kentucky Gas Co.	01-23-89	B		
ST89-1884	Tennessee Gas Pipeline Co.	Creole Gas Pipeline Corp.	01-23-89	B		
ST89-1885	Tennessee Gas Pipeline Co.	Louisiana Intrastate Gas Corp.	01-23-89	B		
ST89-1886	Tennessee Gas Pipeline Co.	Eastern Shore Natural Gas Co.	01-23-89	G		
ST89-1887	Tennessee Gas Pipeline Co.	City of Dickson	01-23-89	B		
ST89-1888	Northern Natural Gas Co.	Oxy U.S.A., Inc.	01-24-89	G-S		
ST89-1889	Northern Natural Gas Co.	Shell Gas Trading	01-24-89	G-S		
ST89-1890	Transwestern Pipeline Co.	McKay Oil Corporation	01-24-89	G-S		
ST89-1891	Tennessee Gas Pipeline Co.	Columbia Gas Transmission Corp.	01-24-89	G-S		
ST89-1892	Tennessee Gas Pipeline Co.	National Fuel Gas Supply Corp.	01-24-89	G		
ST89-1893	Panhandle Eastern Pipe Line Co.	City of Roodhouse	01-24-89	B		
ST89-1894	Panhandle Eastern Pipe Line Co.	Union Electric Co.	01-24-89	B		
ST89-1895	Panhandle Eastern Pipe Line Co.	Kansas Power and Light Co.	01-24-89	B		
ST89-1896	Panhandle Eastern Pipe Line Co.	Amgas, Inc.	01-24-89	G-S		
ST89-1897	Panhandle Eastern Pipe Line Co.	Central Illinois Light Co.	01-24-89	B		
ST89-1898	Natural Gas Pipeline Co. of America	United Texas Transmission Co.	01-24-89	B		
ST89-1899	Natural Gas Pipeline Co. of America	Western Kentucky Gas Co.	01-24-89	B		
ST89-1900	Natural Gas Pipeline Co. of America	Iowa-Illinois Gas & Electric Co.	01-24-89	B		
ST89-1901	ONG Transmission Co.	Panhandle Eastern Pipe Line Co.	01-24-89	C	06-23-89	24.32
ST89-1902	ONG Transmission Co.	United Gas Pipe Line Co.	01-24-89	C	06-23-89	24.32
ST89-1903	ONG Transmission Co.	Phillips Gas Pipeline Co.	01-24-89	C	06-23-89	24.32
ST89-1904	ONG Transmission Co.	Arkla Energy Resources	01-24-89	C	06-23-89	24.32
ST89-1905	Trunkline Gas Co.	Anadarko Trading Co.	01-24-89	G-S		
ST89-1906	Trunkline Gas Co.	Shell Gas Trading Co.	01-24-89	G-S		
ST89-1907	Trunkline Gas Co.	Exxon Corp.	01-24-89	G-S		
ST89-1908	Trunkline Gas Co.	American Central Gas Marketing Co.	01-24-89	G-S		

Docket No.[1]	Transporter/Seller	Recipient	Date filed	Subpart	Expiration date [2]	Transportation rate (cents/MMBTU)
ST89-1909	Trunkline Gas Co.	Tejas Power Corp.	01-24-89	G-S		
ST89-1910	Trunkline Gas Co.	Panhandle Eastern Pipe Line Co.	01-24-89	G		
ST89-1911	Colorado Interstate Gas Co.	Questar Energy Co.	01-24-89	G-S		
ST89-1912	ANR Pipeline Co.	Neches Gas Distribution Co.	01-24-89	B		
ST89-1913	ANR Pipeline Co.	West Tennessee Public Utility Dist.	01-24-89	B		
ST89-1914	ANR Pipeline Co.	Texaco Gas Marketing, Inc.	01-24-89	G-S		
ST89-1915	ANR Pipeline Co.	Humble Gas System, Inc.	01-24-89	G-S		
ST89-1916	ANR Pipeline Co.	Bishop Pipeline Corp.	01-24-89	B		
ST89-1917	ANR Pipeline Co.	Northern Indiana Fuel & Light Co.	01-25-89	B		
ST89-1918	Natural Gas Pipeline Co. of America	Venture Pipeline Co.	01-25-89	B		
ST89-1919	Natural Gas Pipeline Co. of America	Texarkoma Transportation Co.	01-25-89	G-S		
ST89-1920	Natural Gas Pipeline Co. of America	Shell Gas Trading Co.	01-25-89	G-S		
ST89-1921	El Paso Natural Gas Co.	Pacific Gas and Electric Co.	01-25-89	B		
ST89-1922	ONG Transmission Co.	Natural Gas Pipeline Co. of America	01-25-89	C	06-24-89	24.32
ST89-1923	Questar Pipeline Co.	Chevron U.S.A., Inc.	01-25-89	G-S		
ST89-1924	Transcontinental Gas Pipe Line Corp.	TPC Pipeline Co.	01-25-89	B		
ST89-1925	Transcontinental Gas Pipe Line Corp.	Shell Gas Trading Co.	01-25-89	G-S		
ST89-1926	Panhandle Eastern Pipe Line Co.	Amgas, Inc.	01-25-89	G-S		
ST89-1927	Panhandle Eastern Pipe Line Co.	Amgas, Inc.	01-25-89	G-S		
ST89-1928	Panhandle Eastern Pipe Line Co.	Amgas, Inc.	01-25-89	G-S		
ST89-1929	ANR Pipeline Co.	Michigan Consolidated Gas Co.	01-25-89	B		
ST89-1930	ANR Pipeline Co.	Michigan Gas Co.	01-25-89	B		
ST89-1931	ANR Pipeline Co.	Lincoln Natural Gas Co.	01-25-89	B		
ST89-1932	Texas Gas Transmission Corp.	Mississippi Valley Gas Co.	01-25-89	B		
ST89-1933	Texas Gas Transmission Corp.	Energy Marketing Exchange, Inc.	01-25-89	G-S		
ST89-1934	United Gas Pipe Line Co.	Sabine-Desoto Pipeline Co., Inc.	01-25-89	B		
ST89-1935	United Gas Pipe Line Co.	Texaco Gas Marketing, Inc.	01-25-89	G-S		
ST89-1936	United Gas Pipe Line Co.	Transco Energy Marketing	01-25-89	G-S		
ST89-1937	United Gas Pipe Line Co.	Amoco Production Co.	01-25-89	G-S		
ST89-1938	United Gas Pipe Line Co.	Gas Transportation Corp.	01-25-89	B		
ST89-1939	United Gas Pipe Line Co.	Southern Natural Gas Co.	01-25-89	G		
ST89-1940	United Gas Pipe Line Co.	Mississippi Valley Gas Co.	01-25-89	B		
ST89-1941	United Gas Pipe Line Co.	Texican Natural Gas Co.	01-25-89	G-S		
ST89-1942	Williams Natural Gas Co.	BP Gas Marketing Co.	01-25-89	G-S		
ST89-1943	Williams Natural Gas Co.	Penntech, Inc.	01-25-89	G-S		
ST89-1944	CNG Transmission Corp.	Gulf Ohio Corp.	01-25-89	G-S		
ST89-1945	CNG Transmission Corp.	Pentex Petroleum, Inc.	01-25-89	G-S		
ST89-1946	CNG Transmission Corp.	End Users Supply System	01-25-89	G-S		
ST89-1947	CNG Transmission Corp.	Texas-Ohio Gas, Inc.	01-25-89	G-S		
ST89-1948	CNG Transmission Corp.	Baltimore Gas and Electric Co.	01-25-89	B		
ST89-1949	CNG Transmission Corp.	Pentex Petroleum, Inc.	01-25-89	G-S		
ST89-1950	CNG Transmission Corp.	Phoenix Diversified Ventures, Inc.	01-25-89	G-S		
ST89-1951	CNG Transmission Corp.	Heath Petra Resources, Inc.	01-25-89	G-S		
ST89-1952	CNG Transmission Corp.	Access Energy Corp.	01-25-89	G-S		
ST89-1953	Equitrans, Inc.	Equitable Gas Co., et al.	01-26-89	B		
ST89-1954	Equitrans, Inc.	Equitable Gas Co., et al.	01-26-89	B		
ST89-1955	Equitrans, Inc.	Equitable Gas Co.	01-26-89	B		
ST89-1956	Equitrans, Inc.	Equitable Gas Co.	01-26-89	B		
ST89-1957	Equitrans, Inc.	Columbia Gas of Pennsylvania, Inc.	01-26-89	B		
ST89-1958	Equitrans, Inc.	Peoples Natural Gas Co.	01-26-89	B		
ST89-1959	Equitrans, Inc.	Equitable Gas Co., et al.	01-26-89	B		
ST89-1960	BP Gas Transmission Co.	ANR Pipeline Co., et al.	01-26-89	C	06-25-89	13.70
ST89-1961	United Gas Pipe Line Co.	Olympic Pipeline Co.	01-26-89	B		
ST89-1962	United Gas Pipe Line Co.	Resource Group, Inc.	01-26-89	G-S		
ST89-1963	United Gas Pipe Line Co.	Reliance Gas Marketing Co.	01-26-89	G-S		
ST89-1964	United Gas Pipe Line Co.	Nerco Oil and Gas, Inc.	01-26-89	G-S		
ST89-1965	United Gas Pipe Line Co.	Olympic Pipeline Co.	01-26-89	B		
ST89-1966	United Gas Pipe Line Co.	Midcon Marketing Corp.	01-26-89	G-S		
ST89-1967	Transwestern Pipeline Co.	Cabot Gas Supply Corp.	01-26-89	B		
ST89-1968	Tennessee Gas Pipeline Co.	Sun Operating Limited Partnership	01-26-89	G-S		
ST89-1969	Tennessee Gas Pipeline Co.	Pentex Pipeline Co., Inc.	01-26-89	B		
ST89-1970	Lone Star Gas Co.	Northern Natural Gas Co.	01-26-89	C		
ST89-1971	United Gas Pipe Line Co.	NGC Intrastate Pipeline Co.	01-26-89	B		
ST89-1972	United Gas Pipe Line Co.	Seagull Marketing Services, Inc.	01-26-89	G-S		
ST89-1973	United Gas Pipe Line Co.	Superior Natural Gas Corp.	01-26-89	G-S		
ST89-1974	United Gas Pipe Line Co.	Texaco Gas Marketing, Inc.	01-26-89	G-S		
ST89-1975	Williston Basin Interstate P/L Co.	Montana-Dakota Utilities Co.	01-27-89	B		
ST89-1976	Williston Basin Interstate P/L Co.	Quivira Gas Co.	01-27-89	B		
ST89-1977	Williston Basin Interstate P/L Co.	Quivira Gas Co.	01-27-89	B		
ST89-1978	Williston Basin Interstate P/L Co.	Montana-Dakota Utilities Co.	01-27-89	B		
ST89-1979	Williston Basin Interstate P/L Co.	MGTC, Inc.	01-27-89	B		
ST89-1980	Louisiana Intrastate Gas Corp.	ANR Pipeline Co.	01-27-89	C	06-26-89	27.44
ST89-1981	Enogex Inc.	Arkla Energy Resources	01-26-89	C	06-25-89	28.50
ST89-1982	Enogex Inc.	British Petroleum	01-26-89	C	06-25-89	28.50
ST89-1983	Enogex Inc.	British Petroleum	01-26-89	C	06-25-89	28.50
ST89-1984	Enogex Inc.	British Petroleum	01-26-89	C	06-25-89	28.50

Docket No.[1]	Transporter/Seller	Recipient	Date filed	Subpart	Expiration date [2]	Transportation rate (cents/MMBTU)
ST89-1985	Enogex Inc	British Petroleum	01-26-89	C	06-25-89	28.50
ST89-1986	Enogex Inc	British Petroleum	01-26-89	C	06-25-89	28.50
ST89-1987	Enogex Inc	British Petroleum	01-26-89	C	06-25-89	28.50
ST89-1988	Enogex Inc	British Petroleum	01-26-89	C	06-25-89	28.50
ST89-1989	Enogex Inc	Phillips Gas Pipeline Co	01-26-89	C	06-25-89	28.50
ST89-1990	Enogex Inc	Phillips Gas Pipeline Co	01-26-89	C	06-25-89	28.50
ST89-1991	Tomcat		01-27-89	C	06-26-89	15.70
ST89-1992	Tomcat		01-27-89	C	06-26-89	15.70
ST89-1993	Tomcat		01-27-89	C	06-26-89	15.70
ST89-1994	Tomcat		01-27-89	C	06-26-89	15.70
ST89-1995	Tomcat		01-27-89	C	06-26-89	15.70
ST89-1996	Tomcat		01-27-89	C	06-26-89	15.70
ST89-1997	Tomcat		01-27-89	C	06-26-89	15.70
ST89-1998	Tomcat		01-27-89	C	06-26-89	15.70
ST89-1999	Tomcat		01-27-89	C	06-26-89	15.70
ST89-2000	Tomcat		01-27-89	C	06-26-89	15.70
ST89-2001	Tomcat		01-27-89	C	06-26-89	15.70
ST89-2002	Tennessee Gas Pipeline Co	Coronado Transmission Co	01-27-89	B		
ST89-2003	Tennessee Gas Pipeline Co	ANR Gathering Co	01-27-89	G-S		
ST89-2004	Tennessee Gas Pipeline Co	Alcan Aluminum Co	01-27-89	G-S		
ST89-2005	Natural Gas Pipeline Co of America	Winnie Pipeline Co	01-27-89	B		
ST89-2006	Natural Gas Pipeline Co of America	Pacific Gas and Electric Co	01-27-89	B		
ST89-2007	Natural Gas Pipeline Co of America	Llano, Inc	01-27-89	B		
ST89-2008	Tarpon Transmission	Atlanta Gas Light Co, et al	01-27-89	B		
ST89-2009	Northwest Pipeline Corp	American Hunter Exploration, Ltd.	01-27-89	G-S		
ST89-2010	Northwest Pipeline Corp	Nevada Cement Company	01-27-89	G-S		
ST89-2011	Northwest Pipeline Corp	The Boeing Co	01-27-89	G-S		
ST89-2012	El Paso Natural Gas Co	Southern California Gas Co	01-27-89	B		
ST89-2013	El Paso Natural Gas Co	Cabot Gas Supply Corp	01-27-89	B		
ST89-2014	Northwest Pipeline Corp	Southwest Gas Corporation-Northern NV	01-27-89	G-S		
ST89-2015	Northwest Pipeline Corp	Southwest Gas Corporation-Northern CA	01-27-89	G-S		
ST89-2016	Northwest Pipeline Corp	Kimball Energy Corp	01-27-89	G-S		
ST89-2017	Northwest Pipeline Corp	Murphy Plywood Co	01-27-89	G-S		
ST89-2018	Northwest Pipeline Corp	Harvey's Resort Hotel/Casino	01-27-89	G-S		
ST89-2019	Williams Natural Gas Co	Rangeline Corp	01-27-89	G-S		
ST89-2020	Gulf Energy Pipeline Co	Tennessee Gas Pipeline Co	01-30-89	C		
ST89-2021	Sabine Pipe Line Co	Exxon Gas System, Inc	01-30-89	B		
ST89-2022	Sabine Pipe Line Co	Texas Eastern Transmission Corp	01-30-89	G		
ST89-2023	Tennessee Gas Pipeline Co	Columbia Gas Transmission Corp	01-30-89	G		
ST89-2024	Tennessee Gas Pipeline Co	Meridian Oil Inc	01-30-89	G-S		
ST89-2025	Tennessee Gas Pipeline Co	Columbia Gulf Transmission Co	01-30-89	G		
ST89-2026	Tennessee Gas Pipeline Co	Southern Natural Gas Co	01-30-89	G		
ST89-2027	Tennessee Gas Pipeline Co	BHP Petroleum Co., Inc	01-30-89	G-S		
ST89-2028	Tennessee Gas Pipeline Co	National Fuel Gas Supply Corp	01-30-89	G		
ST89-2029	Valero Transmission, L.P.	Texas Eastern Transmission Corp	01-30-89	C		
ST89-2030	Trans Texas Pipeline	El Paso Natural Gas Co	01-30-89	C		
ST89-2031	Valero Transmission, L.P.	Texas Eastern Transmission Corp	01-30-89	C		
ST89-2032	Cabot Gas Supply Corp	ANR Pipeline Co., et al	01-30-89	C		
ST89-2033	Cabot Pipeline Corp	Caprock Pipeline Co	01-30-89	C	06-29-89	00.38
ST89-2034	Caprock Pipeline Co	Picor Pipeline Co	01-30-89	B		
ST89-2035	Enserch Gas Transmission Co	Trunkline Gas Co	01-30-89	C		
ST89-2036	Natural Gas Pipeline Co. of America	LTV Steel Co., Inc	01-30-89	G-S		
ST89-2037	Natural Gas Pipeline Co. of America	Peoples Gas Light & Coke Co	01-30-89	B		
ST89-2038	Natural Gas Pipeline Co. of America	PSI, Inc	01-30-89	G-S		
ST89-2039	Natural Gas Pipeline Co. of America	Bridgeline Gas Distribution Co	01-30-89	B		
ST89-2040	United Gas Pipe Line Co	Apache Transmission Corp	01-30-89	B		
ST89-2041	United Gas Pipe Line Co	Baltimore Gas & Elect. Co., et al	01-30-89	B		
ST89-2042	Texas Eastern Transmission Corp	Consolidated Edison Co. of NY, Inc	01-30-89	B		
ST89-2043	Northern Natural Gas Co	Union Texas Products Corp	01-30-89	G-S		
ST89-2044	Northern Natural Gas Co	Northern States Power Co	01-30-89	B		
ST89-2045	Northern Natural Gas Co	Minnegasco, Inc	01-30-89	B		
ST89-2046	Northern Natural Gas Co	City of Duluth, Dept. of Water & Gas	01-30-89	B		
ST89-2047	Northern Natural Gas Co	Northwestern Public Service Co	01-30-89	B		
ST89-2048	Northern Natural Gas Co	PSI, Inc	01-30-89	G-S		
ST89-2049	Columbia Gulf Transmission Co	North Carolina Natural Gas Corp	01-30-89	B		
ST89-2050	Columbia Gulf Transmission Co	Nashville Gas Co	01-30-89	B		
ST89-2051	Columbia Gas Transmission Corp	Quivira Gas Co	01-30-89	G-S		
ST89-2052	Northwest Pipeline Corp	Santa Fe Gas Marketing Co	01-30-89	G-S		
ST89-2053	Williams Natural Gas Co	Williams Gas Marketing Co	01-30-89	G-S		
ST89-2054	Williams Natural Gas Co	Williams Gas Marketing Co	01-30-89	G-S		
ST89-2055	Williams Natural Gas Co	Williams Gas Marketing Co	01-30-89	G-S		
ST89-2056	Moraine Pipeline Co	Wisconsin Natural Gas Co	01-31-89	B		
ST89-2057	Natural Gas Pipeline Co. of America	Southern Union Gas Co	01-31-89	B		
ST89-2058	Natural Gas Pipeline Co. of America	Wisconsin Natural Gas Co	01-31-89	B		
ST89-2059	Colorado Interstate Gas Co	Coastal States Gas Transmission Co	01-31-89	B		
ST89-2060	Texas Eastern Transmission Corp	Woodward Pipeline, Inc	01-31-89	B		

Docket No.[1]	Transporter/Seller	Recipient	Date filed	Subpart	Expiration date[2]	Transportation rate (cents/MMBTU)
ST89-2061	Transcontinental Gas Pipe Line Corp	Piedmont Natural Gas Co	01-31-89	B		
ST89-2062	Transcontinental Gas Pipe Line Corp	Eastern Shore Natural Gas Co	01-31-89	G		
ST89-2063	Transcontinental Gas Pipe Line Corp	UGI Corp	01-31-89	B		
ST89-2064	Transcontinental Gas Pipe Line Corp	Commission of Public Works, Greenwood	01-31-89	B		
ST89-2065	Transcontinental Gas Pipe Line Corp	East Central Alabama Gas District	01-31-89	B		
ST89-2066	Transcontinental Gas Pipe Line Corp	UGI Corp	01-31-89	B		
ST89-2067	Transcontinental Gas Pipe Line Corp	North Carolina Natural Gas Corp	01-31-89	B		
ST89-2068	Transcontinental Gas Pipe Line Corp	Consolidated Edison Co. of NY, Inc	01-31-89	B		
ST89-2069	Transcontinental Gas Pipe Line Corp	Clinton Newberry Nat. Gas Authority	01-31-89	B		
ST89-2070	Transcontinental Gas Pipe Line Corp	Public Service Co. of N. Carolina	01-31-89	B		
ST89-2071	Seagull Shoreline System	Northern Natural Gas Co	01-31-89	C	06-30-89	08.50
ST89-2072	BP Gas Transmission Co	ANR Pipeline Co., et al	01-31-89	C	06-30-89	13.70
ST89-2073	Columbia Gulf Transmission Co	Humble Gas System, Inc	01-31-89	B		
ST89-2074	Columbia Gulf Transmission Co	National Fuel Gas Supply Corp	01-31-89	B		
ST89-2075	Williams Natural Gas Co	Union Pacific Resources Co	01-31-89	G-S		
ST89-2076	Williams Natural Gas Co	Kansas Power and Light Co	01-31-89	B		
ST89-2077	Williams Natural Gas Co	Ward Gas Marketing, Inc	01-31-89	G-S		

[1] Notice of transactions does not constitute a determination that filings comply with Commission regulations in accordance with Order No. 436 (Final rule and notice requesting supplemental comments, 50 F.R. 42,372, 10/18/85).

[2] The Intrastate Pipeline has sought Commission approval of its transportation rate pursuant to section 284.123(b)(2) of the Commission's Regulations (18 C.F.R. 284.123(b)(2)). Such rates are deemed fair and equitable if the Commission does not take action by the date indicated.

[FR Doc. 89-9316 Filed 4-18-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. MT89-6-000]

Caprock Pipeline Co.; Proposed Changes in FERC Gas Tariff Pursuant to Order No. 497

April 13, 1989.

Take notice that on April 5, 1989, Caprock Pipeline Company, tendered the following tariff sheets for filing in the captioned docket pursuant to Order No. 497 and § 250.16 of the Commission's Regulations as part of its FERC Gas Tariff, Revised Original Volume No. 3:

Revised Original Sheet No. 19, Superseding Original Sheet No. 19
Original Sheet No. 19.a through 19.1

Any person desiring to be heard or to protest the subject filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR §§ 385.214 and 385.21. All such motions or protests must be filed by April 28, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-9308 Filed 4-18-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ89-1-45-002]

Inter-City Minnesota Pipelines Ltd., Inc.; Tariff Filing

April 13, 1989.

Take notice that on April 7, 1989, Inter-City Minnesota Pipelines Ltd., Inc. ("Inter-City"), 245 Yorkland Boulevard, North York, Ontario, Canada M2J 1R1, filed Second Substitute First Revised Thirty-First Revised Sheet No. 4 to Original Volumes No. 1 of its FERC Gas Tariff.

Inter-City states the revised tariff sheet reflects its quarterly PGA. Inter-City requests that the tariff sheet be made effective February 1, 1989.

Copies of the filing were served on Inter-City's jurisdictional customers and interested state commissions.

Any persons desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests must be filed on or before April 21, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-9304 Filed 4-18-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ89-2-45-001]

Inter-City Minnesota Pipelines Ltd., Inc.: Tariff Filing

April 13, 1989.

Take notice that on April 7, 1989, Inter-City Minnesota Pipelines Ltd., Inc. ("Inter-City"), 245 Yorkland Boulevard, North York, Ontario, Canada M2J 1R1, tendered for filing a revised tariff sheet to Original Volume No. 1 of its FERC Gas Tariff to be effective May 1, 1988:

Original Volume No. 1

Substitute Thirty-Third Revised Sheet No. 4

Inter-City states that this revised tariff sheet is filed as Inter-City's quarterly PGA pursuant to Order Nos. 483 and 483-A.

Inter-City states that copies of the filing have been mailed to all of its customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of

Practice and Procedure. All such motions or protests should be filed on or before April 21, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-9305 Filed 4-18-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-14-005]

Inter-City Minnesota Pipelines Ltd., Inc.; Tariff Filing

April 13, 1989.

Take notice that on April 7, 1989, Inter-City Minnesota Pipelines Ltd., Inc. ("Inter-City"), 245 Yorkland Boulevard, North York, Ontario, Canada M2J 1R1, tendered for filing a revised tariff sheet to its FERC Gas Tariff.

Original Volume No. 1

Substitute Second
Substitute Thirty-Second Revised Sheet No. 4

Inter-City states that the revised tariff is filed pursuant to § 154.67 of the Commission's Regulations, and also complies with the Commission's orders issued in this docket on November 30, 1988 and March 28, 1989. Inter-City proposes the sheet to become effective May 1, 1989.

Inter-City states that copies of the filing have been mailed to all of its customers and affected state regulatory commissions.

Any persons desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before April 21, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-9312 Filed 4-18-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TC88-8-003]

Kentucky West Virginia Gas Co.; Tariff Filing

April 13, 1989.

Take notice that on March 30, 1989, Kentucky West Virginia Gas Company, (Kentucky West), P.O. Box 1388, Ashland, Kentucky 41105, filed in Docket No. TC88-8-003, the following revised tariff sheets to its FERC Gas Tariff, Second Revised Volume No. 1:

Original Sheet No. 54G(1)
Original Sheet No. 54G(2)
Original Sheet No. 54G(3)
Original Sheet No. 54G(4)

Kentucky West states that the tariff sheets filed herein contain the Index of Entitlements implementing its gas supply cutailment plan and are being filed in compliance with Ordering Paragraph (b) of the Commission's order issued October 31, 1988, in Docket Nos. TC88-8-000 and TC88-8-001.

With the filing of the Index of Entitlements, Kentucky West requests that the Commission cancel and reserve for future use those tariff sheets which contain the interim pro-rata curtailment plan:

First Revised Sheet No. 54K, Supersdeding
Original Sheet No. 54K
First Revised Sheet No. 54L, Supersdeding
Original Sheet No. 54L
First Revised Sheet No. 54M, Supersdeding
Original Sheet No. 54M

Kentucky West has requested that the Commission authorize the tendered tariff sheets to become effective May 1, 1989.

Kentucky West states that copies of this filing have been served on all parties to this proceeding and on each of Kentucky West's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 24, 1989, file with the Federal Energy Regulation Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-9306 Filed 4-18-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP89-61-003 and RP89-146-000]

Kentucky West Virginia Gas Co.; Compliance Filing

April 13, 1989.

Take notice that on April 3, 1989, Kentucky West Virginia Gas Company (Kentucky West) filed certain tariff sheets in compliance with the Commission's order of March 2, 1989.

Kentucky West states that these tariff sheets restate its base tariff rates effective March 2, 1989, employing the modified fixed-variable methodology and reflect its PGA filing which became effective March 1, 1989 in Docket No. TF89-3-46. Kentucky West states that it is filing these tariff sheets under protest and without projudice to its position set forth in its request for rehearing filed on March 17, 1989.

Kentucky West states that copies of this filing are being served upon all parties to this proceeding and to each of its customers and the public service commissions of Kentucky, Pennsylvania, and West Virginia.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules and Practice and Procedure (18 CFR 385.214, 385.211 (1988)). All such motions or protests should be filed on or before April 20, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection

Lois D. Cashell,

Secretary.

[FR Doc. 89-9313 Filed 4-18-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-33-000]

Northern Border Pipeline Co.; Informal Settlement Conference

April 13, 1989.

Taken notice that on May 31, 1989, at 1:00 p.m. in the offices of the Commission at 825 North Capitol Street, Washington, DC, there will be an informal settlement conference to explore the potential resolution of the issues contained in the above-captioned proceeding. It is the intention of the parties to discuss settlement of all outstanding issues.

Any party, as defined by 18 CFR 385.102(c) (1988) is invited to attend. Any persons wishing to become a party must move to intervene and receive intervener status pursuant to 18 CFR 385.214.

Lois D. Cashell,

Secretary.

[FR Doc. 89-9315 Filed 4-18-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. MT88-11-003]

Northwest Pipeline Corp.; Proposed Changes in FERC Gas Tariff Pursuant to Order No. 497

April 13, 1989.

Take notice that on March 31, 1989, Northwest Pipeline Corporation tendered the following tariff sheets for filing in the captioned docket pursuant to Order No. 497 and § 250.16 of the Commission's Regulations as part of its FERC Gas Tariff, Original Volume No. 1-A:

Second Revised Sheet No. 423
First Revised Sheet No. 423-A

Any person desiring to be heard or to protest the subject filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211. All such motions or protests must be filed by April 28, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-9309 Filed 4-18-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TQ89-2-29-001 and TQ89-3-29-001]

Transcontinental Gas Pipe Line Corp.; Proposed Changes in FERC Gas Tariff

April 13, 1989.

Take notice that Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing on April 10, 1989 the following tariff sheets to its FERC Gas Tariff Second Revision Volume No. 1. Such sheets are proposed to be effective February 1, and April 1, 1989.

Effective February 1, 1989

Substitute Fifty-Fifth Revised Sheet No. 12
Substitute Fifty-Second Revised Sheet No. 15

Effective April 1, 1989

Substitute Fifty-Sixth Revised Sheet No. 12
Substitute Fifty-Third Revised Sheet No. 15

Transco states that this filing revises certain tariff sheets accepted by the Commission in the above referenced dockets to incorporate the currently effective Commodity PSP charge of 11.1¢ per dt.

Transco states that copies of the instant filing are being mailed to its jurisdictional customers, State Commissions, and interested parties. In accordance with the provisions of § 154.16 of the Commission's Regulations, copies of this filing are available for public inspection during regular business hours, in a convenient form and place at Transco's main offices at 2800 Post Oak Boulevard in Houston, Texas.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NW., Washington, DC 20426, in accordance with §§385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before April 21, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 89-9307 Filed 4-18-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP88-68-011 and RP89-122-001]

Transcontinental Gas Pipe Line Corp.; Tariff Filing

April 13, 1989.

Take notice that Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing on April 10, 1989 the following tariff sheets to Second Revised Volume No. 1 of its FERC Gas Tariff. Such sheets are proposed to be effective May 1, 1989.

First Revised Sheet No. 12-B
First Revised Sheet No. 12-C
First Revised Sheet No. 12-D

Transco states that the purpose of the instant filing is to calculate the PSP charges for the second Annual Recovery Period (Year 2) commencing May 1, 1989, as provided in §§ 29.4(a) and 29.6(a) of Transco's General Terms and Conditions. The allocation of the Year 2 Fixed Monthly PSP Charges are reflected on the tariff sheets submitted in the instant filing. Transco also states that the resulting Year 2 Commodity PSP Charges are the same as those currently in effect for the initial Annual Recovery Period.

Transco further states that copies of the instant filing are being mailed to its jurisdictional customers, State Commissions and interested parties. In accordance with the provisions of § 154.16 of the Commission's Regulations, copies of this filing are available for public inspection during regular business hours, in a convenient form and place at Transco's main offices at 2800 Post Oak Boulevard in Houston, Texas.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before April 21, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 89-9311 Filed 4-18-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. MT89-5-000]

West Texas Gathering Co.; Proposed Changes in FERC Gas Tariff Pursuant to Order No. 497

April 13, 1989.

Take notice that on April 5, 1989, West Texas Gathering Company tendered the following tariff sheets for filing in the captioned docket pursuant to Order No. 497 and § 250.16 of the Commission's Regulations as part of its FERC Gas Tariff, Revised Original Volume No. 2:

Revised Original Sheet No. 19, Superseding Original Sheet No. 19
Original Sheet No. 19.a through 19.1

Any person desiring to be heard or to protest the subject filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211. All such motions or protests must be filed by April 28, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-9310 Filed 4-18-89; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-3558-1]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and is available to the public for review and comment. The ICR describes the nature of the information collection and its expected cost and burden; where appropriate, it includes the actual data collection instrument.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA, (202) 382-2740.

SUPPLEMENTARY INFORMATION:

Office of Air and Radiation

Title: National Residential Radon Survey. (EPA ICR No. 1396; OMB No. 2060-0173). This is a new collection.

Abstract: This survey will collect information on radon gas levels present in residential structures across the country as well as information on building construction and individual occupancy patterns. Radon measurement devices will be placed in randomly selected households for a period of one year. The information will be used to estimate the frequency distribution of annual average radon concentrations in housing nationwide and to investigate correlations between specific construction types and radon levels.

Burden Statement: The estimated public burden for this collection of information is 1 hour per response.

Respondents: Residential dwellers.

Estimated No. of Respondents: 7,500.

Estimated Total Burden on Respondents: 7,500 hours.

Frequency of Collection: One time only.

Expedited Review: The comment period for this collection of information is May 10, 1989.

Send comments regarding the burden estimate, or any other aspect of this collection of information, including suggestions for reducing the burden, to: Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch, 401 M Street, SW., Washington, DC 20460, and Nicolas Garcia, Office of Management and Budget, Office of Information and Regulatory Affairs, 726 Jackson Place, SW., Washington, DC 20503, (Telephone (202) 395-3084).

OMB Responses to Agency PRA Clearance Requests

EPA ICR # 370.09; Underground Injection Control Program Information; was approved 03/07/89; OMB # 2040-0042; expires 09/30/91.

EPA ICR # 1343; Reports for States to Make SARA Capacity Assurances; was approved 03/09/89; OMB # 2050-0099; expires 11/30/90.

EPA ICR # 1491; Notification of National Response Center for Release of Extremely Hazardous Substances Newly Designated as Hazardous Substances Under CERCLA; was approved 03/09/89; OMB # 2050-0102; expires 01/31/92.

EPA ICR # 0011.04; Selective Enforcement Auditing Reporting Requirements for Light-Duty Vehicles, Light-Duty Trucks and Heavy-Duty Engines; was approved 03/09/89; OMB # 2060-0064; expires 03/31/92.

EPA ICR # 1245.02; Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs; was disapproved 03/10/89.

EPA ICR # 0111.03; National Emission Standard for Asbestos (NESHAP); was disapproved 03/01/89.

Date: March 24, 1989.

Paul Lapsley, Director,

Information and Regulatory Systems Division.

[FR Doc. 89-9377 Filed 4-18-89; 8:45 am]

BILLING CODE 6560-50-M

[FRL-3557-8]

Performance Evaluation Reports for Fiscal Year 1988; Section 105 Grants; Missouri, et al

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability of grantee performance evaluation reports.

SUMMARY: EPA's grant regulations (40 CFR 35.150) require the Agency to conduct yearly performance evaluations on the progress of the approved State/EPA Agreements. EPA's regulations (40 CFR 56.7) require that the Agency make available to the public the evaluation reports. EPA has conducted evaluations on the Missouri Department of Natural Resources, Nebraska Department of Environmental Control, Iowa Department of Natural Resources, and Kansas Department of Health and Environment. These evaluations were conducted to assess the agencies' performance under the grants made to them by EPA pursuant to section 105 of the Clean Air Act.

EFFECTIVE DATE: April 19, 1989.

ADDRESSES: Copies of the evaluation reports are available for public inspection at the EPA's Region VII Office, Air and Toxics Division, 726 Minnesota Avenue, Kansas City, Kansas 66101.

FOR FURTHER INFORMATION CONTACT: Carol D. LeValley at (913) 236-2893 (FTS 757-2893).

Date: April 3, 1989.

Morris Kay,

Regional Administrator.

[FR Doc. 89-9379 Filed 4-18-89; 8:45 am]

BILLING CODE 6560-50-M

[PF-516; FRL-3554-51]

Ciba-Geigy Corp.; Amended Pesticide Petition

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the filing of an amendment to pesticide petition (PP) 9F3706 by the Ciba-Geigy Corp.

ADDRESS: By mail, submit written comments to: Public Docket and Freedom of Information Section, Field Operations Division (H–7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

In person, bring comments to: Rm. 246, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 409 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA wihtout prior notice. All written comments will be available for public inspection in Rm. 246 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, cluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Lois Rossi, Product Manager (PM) 21, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

Office location and telphone number: Rm. 227, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703)–557–1990.

SUPPLEMENTARY INFORMATION: EPA has received from the Ciba-Geigy Corp., Agricultural Division, P.O. Box 18300, Greensboro, NC 27419, an amendment to PP 9F3706, which proposed to amend 40 CFR 180.434 by proposing to establish a regulation to permit the combined residues of fungicide 1-[[2-2,4-dichlorophenyl)-4-propyl-1,3-dioxolan-2-yl]methyl)-1H-1,2,4-triazole and its metabolites determined as 2,4-dichlorobenzoic acid in or on kidney and liver of cattle, goats, hogs, horses, and sheet at 2.0 parts per million (ppm).

Ciba-Geigy originaly petitioned for tolerances for this pesticide in or on grass hay at 5.0 ppm and grass forage at 0.5 ppm. Notice of this petition was published in the Federal Register of February 22, 1989 (54 FR 7597). The petition was amended to add the raw agricultural commodity grass seed screenings at 10 ppm. Notice of this amended petition was published in the Federal Register of March 15, 199 (54 10715).

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

Dated: March 30, 1989.

Anne E. Lindsay,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 89–8820 Filed 4–18–89; 8:45 am]

BILLING CODE 6560–50–M

[PP 8G3680/T578; FRL–3556–6]

Rohm and Haas Co.; Establishment of Temporary Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has established a temporary tolerance for residues of the fungicide alpha-butyl-alpha-(4-chlorophenyl)-1*H*-1,2,4-triazole-1-propanenitrile and its metabolites containing both the chlorophenyl and triazole rings (free and bound) in or on the raw agricultural commodity stone fruits group (except dried plums) at 2 parts per million.

DATE: This temporary tolerance expires October 31, 1990.

FOR FURTHER INFORMATION CONTACT: By mail:

Susan Lewis, Product Manager (PM) 21, Registration Division (H75C5C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460

Office location and telephone number: Rm 229, CM#2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 557–1900

SUPPLEMENTARY INFORMATION: Rohm and Haas Co., Independence Mall West, Philadelphia, PA 19105, has requested in pesticide petition (PP) 8G3680 the establishment of a temporary tolerance for residues of the fungicide alpha-butyl-alpha-(4-chlorophenyl)-1*H*-1,2,4-triazole-1-propanenitrile and its metabolites containing both the chlorophenyl and triazole rings (free and bound) in or on the raw agricultural commodity stone fruits groups (except dried plums) at 2 parts per million (ppm).

This temporary tolerance will permit the marketing of the above raw agricultural commodity when treated in accordance with the provisions of experimental use permit 707–EUP–119, which is being issued under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (Pub. L. 95–396, 92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and other relevant material were evaluated, and it was determined that establishment of the temporary tolerance will protect the public health. Therefore, the temporary tolerance has been established on the condition that the pesticide be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the active ingredient to be used must not exceed the quantity authorized by the experimental use permit.

2. Rohm and Haas Co. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employer of the EPA or the Food and Drug Administration.

This tolerance expires October 31, 1990. Residues not in excess of this amount remaining in or on the raw agricultural commodity after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerance. This tolerance may be revoked if the experimental use permit is revoked or if any experience with or scientific data on this pesticide indicate that such revocation is necessary to protect the public health.

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

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–354, 94 Stat. 1164, 5 U.S.C. 610–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

Authority: 21 U.S.C. 346a(j).

Dated: March 30, 1989.

Anne E. Lindsay,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 89–9117 Filed 4–18–89; 8:45 am]

BILLING CODE 6560–50–M

[OPP-50688; FRL-3554-4]

Receipt of Notification of Intent To Conduct Small-Scale Field Testing; Genetically Altered Microbial Pesticide; Ciba-Geigy Corp.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received a notification of intent to conduct small-scale field testing of a transconjugate strain of *Bacillus thuringiensis* derived using traditional cell culture techniques from the Ciba Geigy Corporation.

ADDRESS: By mail, submit written comments to: Public Docket and Freedom of Information Section, Field Operations Division (H7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

In person bring comments to: Rm. 246, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted in any comment(s) concerning this Notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked, will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for the inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. Information on the proposed test and all written comments will be available for public inspection in Room 246 at the Virginia address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Phillip Hutton, Product Manager (PM) 17, Registration Division (H7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

Office location and telephone number: Room 207, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, (703–557–2690).

SUPPLEMENTARY INFORMATION: A notification of intent to conduct small-scale field testing pursuant to the EPA's "Statement of Policy; Microbial Products Subject to the Federal Insecticide, Fungicide, and Rodenticide Act and the Toxic Substances Control Act" of June 26, 1986 (51 FR 23313), has been received from the Ciba-Geigy Corporation of Greensboro, North Carolina. The purpose of the proposed testing is to evaluate the efficacy of the transconjugate *Bacillus thuringiensis* strain towards lepidopterous insect pests of cabbage. The field test is to take place in California, Florida, Illinois, Mississippi, New York and Wisconsin for a combined acreage of 0.12 acre.

Following the review of the Ciba-Geigy Corporation application, EPA will decide whether or not an Experimental Use Permit is required.

Dated: April 2, 1989.

Anne E. Lindsay,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 89–8821 Filed 4–18–89; 8:45 am]

BILLING CODE 6560–50–M

[OPP-50689; FRL-3558-2]

Receipt of a Notification Application To Conduct Field Testing Using a Non-Indigenous Microorganism

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces that EPA has received from Evans Biocontrol a notification application requesting permission to conduct small-scale field testing using a non-indigenous Brazilian isolate of *Beauveria bassiana* for control of Solenopsis invicta, the Red Imported Fire Ant.

ADDRESS:

By mail, submit written comments to: Public Docket and Freedom of Information Section, Field Operations Division (HJ7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

In person, bring comments to: Rm. 246, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 246 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Phil Hutton, Product Manager (PM) 17, Registration Division (H7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 207, CM#2, 1921 Jefferson Davis Highway, Arlington, VA (703) 557–2690).

SUPPLEMENTARY INFORMATION: EPA has received a notification of intent application from Evans Biocontrol requesting to use a Brazilian strain of *Beauveria bassiana* on nests of the Red Imported Fire Ant, Solenopsis invicta, on non-grazing pastureland in Florida to assess the environmental impact. Nest applications sites will be closely monitored to ensure that the bait does not spread from the fire ant nests. A longer term monitoring of the test site will be conducted to determine any persistence of this microorganism in the soil.

Following the review of this notification, EPA will decide whether or not an experimental use permit is required.

Dated: April 11, 1989.

Frank Sanders,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 89–9378 Filed 4–18–89; 8:45 am]

BILLING CODE 6560–50–M

[OPP-36164; FRL-3556-5]

Standard Evaluation Procedures; Availability of Final Guidance Documents

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Availability.

SUMMARY: This notice announces the availability of seven scientific review procedures outlined in the Standard Evaluation Procedures (SEPs), a standard set of guidance documents on how the Health Effects Division, Office of Pesticide Programs, EPA, evaluates studies and scientific data to ensure consistency of scientific review. These documents, described under **SUPPLEMENTARY INFORMATION,** are now available to the public and may be purchased through the National Technical Information Service (NTIS).

ADDRESS: Address orders to: National Technical Information Service, ATTN: Order Desk, 5285 Port Royal Road, Springfield, VA 22161, (703–487–4650).

FOR FURTHER INFORMATION CONTACT: By mail:

Maxie Jo Nelson, Health Effects Division (H7509C), Office of Pesticide

Programs, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460

Office location and telephone number: Rm 810, Crystal Mall Building #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–7484)

SUPPLEMENTARY INFORMATION: The SEPs are a standard set of guidance documents on how the Health Effects Division (HED) evaluates studies and scientific data to ensure consistency of scientific reviews. Not only do the SEPs serve as valuable internal reference documents and training aids for new staff, but these documents also inform the public and regulated community of important considerations in the evaluation of test data for determining chemical hazards.

The SEPs ensure a comprehensive, consistent treatment of major scientific topics in EPA's science reviews and provide interpretive policy guidance where appropriate, but are not so detailed that they inhibit creativity and independent thought. Throughout the remainder of this fiscal year, HED will be publishing three additional SEPs in the scientific discipline of chemistry. Thirty-seven SEPs have been published previously and are also available from NTIS, which is responsible for distribution of all SEPs after they have been completed. Prior to publication, each of the SEPs must undergo extensive peer review including Division, Office, Intra-Agency, and public comment; this announcement will serve to provide ordering information for the seven SEPs recently published.

Document title	NTIS order No.	Price (hard copy)	Price (microfiche)
Directions for Use	PB88–243225	13.95	6.95
Magntude of the Residue: Processed Food/Feed Studies	PB88–243209	13.95	6.95
Product Chemistry	PB88–243191	13.95	6.95
Residues in Meat, Milk, Poultry, and Eggs: Dermal Treatments	PB88–243217	13.95	6.95
Specialty Applications	PB88–244454	13.95	6.95
Qualitative Nature of the Residue: Plant Metabolism	PB89–100333	13.95	6.95
Inhalation Toxicity Testing	PB89–100366	13.95	6.95

The order should specify the title of the SEP document, the NTIS order number, and whether hard copy (price code A03) or microfiche (price code A01) is requested. The NTIS order number is the same for both microfiche and hard copy. Send orders to the NTIS address provided above.

Dated: March 31, 1989.

William D. Barnam,

Acting Director, Health Effects Division, Office of Pesticide Programs.

[FR Doc. 89–9119 Filed 4–18–89; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Agency Information Collection Submitted to the Office of Management and Budget for Clearance

The Federal Emergency Management Agency (FEMA) has submitted to the Office of Management and Budget the following information collection package for clearance in accordance with the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Type: New.

Title: Hazard Mitigation Grant Program Application.

Abstract: Public Law 100–707, The Disaster Relief and Emergency Assistance Amendments of 1988 allows for States to apply for funding of hazard mitigation measures following a Federal declaration of a major disaster or emergency. States, local governments, and private non-profit organizations will be the recipients of the funds, and must meet the application requirements of 44 CFR Part 206, Subpart N.

Type of Respondents: State or local governments.

Estimate of Total Annual Reporting and Recordkeeping Burden: 1.

Number of Respondents: 1.

Estimated Average Burden Hours Per Response: 1.

Frequency of Response: Other. The program is only activated after a declaration for Federal disaster assistance.

Copies of the above information collection request and supporting documentation can be obtained by calling or writing the FEMA Clearance Officer, Linda Shiley, (202) 646–2624, 500 C Street SW., Washington, DC 20472.

Direct comments regarding the burden estimate or any aspect of this information collection, including suggestions for reducing this burden, to the FEMA Clearance Officer at the above address; and to Pamela Barr, (202) 395–7231, Office of Management and Budget, 3235 NEOB, Washington, DC 20503 within two weeks of this notice.

Date: April 12, 1989.

Gail L. Kercheval,

Acting Director, Office of Administrative Support.

[FR Doc. 89–9363 Filed 4–18–89; 8:45 am]

BILLING CODE 6718–01–M

Agency Information Collection Submitted to the Office of Management and Budget for Clearance

The Federal Emergency Management Agency (FEMA) has submitted to the Office of Management and Budget the following information collection package for clearance in accordance with the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Type: New.

Title: State Administrative Plan for the Hazard Mitigation Grant Program.

Abstract: Public Law 100–707, The Disaster Relief and Emergency Assistance Amendments of 1988, allows for States to apply for funding of hazard mitigation measures following a Federal declaration of a major disaster or emergency. States will serve as grantees and must prepare an administrative plan which outlines the procedures for grant management.

Type of Respondents: State or local governments.

Estimate of Total Annual Reporting and Recordkeeping Burden: 1.

Number of Respondents: 1.

Estimated Average Burden Hours per Response: 1.

Frequency of Response: Other. The program is only activated after a declaration for Federal disaster assistance.

Copies of the above information collection request and supporting documentation can be obtained by calling or writing the FEMA Clearance

Officer, Linda Shiley, (202) 646–2624, 500 C Street, SW., Washington, DC 20472.

Direct comments regarding the burden estimate or any aspect of this information collection, including suggestions for reducing this burden, to the FEMA Clearance Officer at the above address; and to Pamela Barr, (202) 395–7231, Office of Management and Budget, 3235 NEOB, Washington, DC 20503 within two weeks of this notice.

Date: April 12, 1989.

Gail L. Kercheval,

Acting Director, Office of Administrative Support.

[FR Doc. 89–9447 Filed 4–18–89; 8:45 am]

BILLING CODE 6718–01–M

Agency Information Collection Submitted to the Office of Management and Budget for Clearance

The Federal Emergency Management Agency (FEMA) has submitted to the Office of Management and Budget the following information collection package for clearance in accordance with the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Type: Extension of 3067–0096.

Title: FEMA Form 85–16, Summary of State and Local Expenses for Emergency Management Assistance.

Abstract: The Emergency Management Assistance 50–50 matching fund grant program requires FEMA Form 85–16 be submitted as a request or amended request for a financial contribution. The information constitutes the plan under which program funds will be allocated to the States.

Type of Respondents: State or local governments.

Estimate of Total Annual Reporting and Recordkeeping Burden: 112.

Number of Respondents: 56.

Estimated Average Burden Hours Per Response: 2.

Frequency of Response: Annually and when amendments must be submitted.

Copies of the above information collection request and supporting documentation can be obtained by calling or writing the FEMA Clearance Officer, Linda Shiley, (202) 646–2624, 500 C Street, SW., Washington, DC 20472.

Direct comments regarding the burden estimate or any aspect of this information collection, including suggestions for reducing this burden, to the FEMA Clearance Officer at the above address; and to Pamela Barr, (202) 395–7231, Office of Management and Budget, 3235 NEOB, Washington, DC 20503 within two weeks of this notice.

Date: April 10, 1989.

Gail L. Kercheval,

Acting Director, Office of Administrative Support.

[FR Doc. 89–9448 Filed 4–18–89; 8:45 am]

BILLING CODE 6718–01–M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 217–011215–001.

Title: Naviera Pacifico/N.V. CMB S.A. Space Charter Agreement.

Parties:

Naviera Pacifico C.A.
N.V. CMB S.A.

Synopsis: The proposed modification would permit the parties to discuss, negotiate, enter into and implement agreements or arrangements for procuring and utilizing marine terminal, stevedoring and related cargo handling facilities and services in connection with their existing space charter arrangements for excess capacity on their respective vessels.

By order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

Dated: April 13, 1989.

[FR Doc. 89–9342 Filed 4–18–89; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Citicorp, New York, NY; Requesting Relief From Conditions Imposed on the Acquisition of Thrift Institutions by Bank Holding Companies

Citicorp, New York, New York ("Citicorp"), has filed a notice requesting relief from the restrictions imposed by the Board by order, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) ("BHC Act") and § 225.23(a)(3) of the Board's Regulation Y (12 CFR 225.23(a)(3)), on joint marketing operations between, and transactions among, thrift institution subsidiaries of Citicorp and their holding company affiliates. These conditions, commonly referred to as the "tandem operations restrictions," provide that:

(1) the thrift institutions would be operated as separate, independent, profit-oriented corporate entities and would not be operated in tandem with any other subsidiary of the bank holding company. In order to carry out this condition, the bank holding company and thrift institutions would limit their operations so that:

(a) no banking or other subsidiary of the bank holding company would link its deposit-taking activities to accounts at the thrift institutions in a sweeping arrangement or similar arrangement; and,

(b) the thrift institutions would not directly or indirectly solicit deposits or loans for any other subsidiary of the bank holding company and the bank holding company and its subsidiaries would not solicit deposits or loans for the thrift institutions; and

(2) to the extent necessary to insure independent operation of the thrift institution and prevent the improper diversion of funds, the thrift institutions would not engage in any transactions with the bank holding company or its other subsidiaries without prior approval of the appropriate Federal Reserve Bank.

Citicorp contends that these conditions prohibit normal and lawful business behavior, impose unnecessary costs and burdensome inefficiencies, limit services to consumers, and frustrate efforts to restore failed or failing thrift institutions to financial viability. Citicorp also argues that the tandem operations restrictions have worked as a significant deterrent to thrift acquisitions by bank holding companies, at a time when bank holding companies could help to fulfill the thrift industry's critical need for outside financial and managerial resources. In addition, Citicorp points to the provisions of the proposed Financial Institutions Reform, Recovery and Enforcement Act of 1989, which would authorize bank holding companies to acquire thrift institutions without restrictions on transactions between the thrift and its holding company affiliates except as required under sections 23A and 23B of the Federal Reserve Act, or as otherwise required by law.

The Board believes that, in considering action in this area, it is appropriate to seek public comment, in light of the significant public

participation that surrounded the original development of the conditions. Accordingly, the Board seeks public comment on whether the restrictions should be retained, modified or removed.

Comments regarding this notice, which would refer to Docket No. R–0663, must be received at the offices of the Board of Governors no later than May 19, 1989. All comments should be mailed to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551, or delivered to the courtyard entrance, Eccles Building, 20th Street NW., between "C" Street and Constitution Avenue NW., Washington, DC, between 8:45 a.m. and 5:15 p.m. weekdays. Citicorp's request for relief is available for inspection at the offices of the Board of Governors.

Board of Governors of the Federal Reserve System, April 12, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89–9298 Filed 4–18–89; 8:45 am]

BILLING CODE 6210–01–M

Capital City Bank Group, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than May 5, 1989.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Capital City Bank Group, Inc.,* Tallahassee, Florida; to acquire 100 percent of the voting shares of Branford State Bank, Franford Florida.

B. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Farmers Savings Bank, Trustee of Farmers Savings Bank Employee Stock Ownership Plan & Trust,* West Union, Iowa; to become a bank holding company by acquiring 49.1 percent of the voting shares of Farmers Savings Bank, West Union, Iowa.

2. *Fistar Corporation,* Milwaukee, Wisconsin; to acquire 100 percent of the voting shares of Elkhorn Bankshares Corp., Elkhorn, Wisconsin, and thereby indirectly acquire State Bank of Elkhorn, Elkhorn, Wisconsin.

3. *F.W.S.F. Corporation,* Milwaukee, Wisconsin; to acquire 100 percent of the voting shares of Elkhorn Bankshares Corp., Elkhorn, Wisconsin, and thereby indirectly acquire State Bank of Elkhorn, Elkhorn, Wisconsin.

Board of Governors of the Federal Reserve System, April 13, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89–9345 Filed 4–18–89; 8:45 am]

BILLING CODE 6210–01–M

Westpac Banking Corp.; Application To Engage de Novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo,* either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 2, 1989.

A. Federal Reserve Bank of New York (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Westpac Banking Corporation,* Sydney, Australia; to engage in making, acquiring, or servicing loans or other extensions of credit (including issuing letters of credit and accepting drafts) for the company's account or for the account of others, such as would be made by the following types of companies: (i) Consumer finance; (ii) credit card; (iii) mortgage; (iv) commercial finance; and (v) factoring pursuant to § 225.255(b)(1) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, April 13, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89–9346 Filed 4–18–89; 8:45 am]

BILLING CODE 6210–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse, and Mental Health Administration

Group Home for Recovering Substance Abusers; Guidelines

Pub. L. 100–690, The Anti-Drug Abuse Act of 1988, amended Subpart I of Part B of Title XIX of the Public Health Service Act by adding a new section 1916A establishing a program entitled Group Homes for Recovering Substance Abusers. In accordance with the law, guidelines for the operation of this new program follow:

Guidelines—Group Homes for Recovering Substance Abusers

Introduction

The Group Homes for Recovering Substance Abusers program provides for the nationwide establishment of self-help recovery housing services and a cost-effective method for many recovering individuals to avoid relapse.

Under the new law, recovering individuals will have the opportunity to develop a new alcohol and drug free lifestyle by accepting responsibility for operation of alcohol and drug free recovery housing. By having responsibility for operating a recovery house within a democratically run and self-supported system, individuals gain confidence in exercising responsibility without the use of alcohol and drugs. **Note:** there are no restrictions in the statute regarding the source of funds for self-support.)

Experience demonstrates that democratically operated, self-supported systems instill responsibility and accomplishment in the residents thereby making long-term abstinence from drug and alcohol use more viable. For these reasons, the new law utilizes the principle of making available small start-up loans rather than grants for supporting the costs of establishing recovery housing services.

It is important to note that the number of new houses started will depend upon the degree to which the new program is promoted and explained at both the State and Federal levels of Government. The concept is new, therefore, considerable education and promotion is necessary to achieve an understanding of its simplicity and how it works.

Purpose

The purpose of these guidelines is to assist States in establishing a revolving fund to provide loans to non-profit private entities for the costs of establishing programs for the provison of housing in which individuals recovering from alcohol or drug abuse may reside. The guidelines are intended to identify potential problems and to ensure that appropriate consideration is given to relevant issues in developing and establishing programs to implement the legislation.

The guidelines are not intended to supplant the functions or responsibilities of the States. They do not constitute Federal regulation but are *advisory* in nature and are intended to reflect a logical, reasonable approach which is consistent with the legislation.

Applicability

The information contained herein applies only to section 1916 A of the Public Health Service Act. All existing Federal, State, and local laws and regulations must continue to be complied with in implementing this new provision of law.

Structure

The guidelines address three basic elements necessary for the States to implement the legislation: (1) Establishing the fund; (2) establishing a loan management process; and (3) establishing quality control and accountability measures.

Authority

The Anti-Drug Abuse Act of 1988 (Pub. L. 100–690, approved November 18, 1988) amended Subpart I of part B of title XIX of the Public Health Service Act (42 U.S.C. 300x) by adding a new section 1916A establishing a program entitled Group Homes for Recovering Substance Abusers.

Generally, this section requires each State, as a contingency of receiving funds under the Alcohol and Drug Abuse and Mental Services (ADMS) Block Grant, to establish a revolving fund of at least $100,000 to provide loans to non-profit private entities for the provision of housing for four or more recovering individuals who want to rent a house or use other housing as self-supported and self-run alcohol and drug free recovery programs.

Specifically, section 1916A states:

(a) For fiscal year 1989, the Secretary may not make payments under section 1914 unless the State involved agrees—

(1) to establish, directly or through the provision of a grant or contract to a non-profit private entity, a revolving fund to make loans for the costs of establishing programs for the provision of housing in which individuals recovering from alcohol or drug abuse may reside in groups of not less than 4 individuals;

(2) to ensure that the programs are carried out in accordance with guidelines issued under subsection (c);

(3) to ensure that not less than $100,000 will be available for the revolving fund;

(4) to ensure that each loan made from the revolving fund does not exceed $4,000 and that each such loan is repaid to the revolving fund not later than 2 years after the date on which the loan is made;

(5) to ensure that each such loan is repaid through monthly installments and that a reasonable penalty is assessed for each failure to pay such periodic installments by the date specified in the loan agreement involved; and

(6) to ensure that such loans are made only to nonprofit private entities agreeing that, in the operation of the program established pursuant to the loan—

(A) the use of alcohol or any illegal drug in the housing provided by the program will be prohibited;

(B) any resident of the housing who violates such prohibition will be expelled from the housing;

(C) the costs of the housing, including fees for rent and utilities, will be paid by the residents of the housing, and

(D) the residents of the housing will, through a majority vote of the residents, otherwise establish policies governing residence in the housing, including the manner in which applications for residence in the housing are approved.

(b) For Fiscal Year 1990 and subsequent fiscal years, the Secretary may not make payments under section 1914 unless the State involved provides assurances satisfactory to the Secretary that the State has provided for the establishment and ongoing operation of a revolving fund in accordance with subsection (a).

(c) Not later than 90 days after the date of the enactment of the Comprehensive Alcohol, Drug Abuse, and Mental Health Amendments Act of 1988, the Secretary, acting through the Administrator, shall issue guidelines for the operation of programs described in subsection (a).

Establishment of the Fund

States must establish, directly or through provision of a grant or contract to a non-profit private entity, a revolving fund to make loans for the costs of establishing programs for the provision of housing in which individuals recovering from alcohol or drug abuse may reside in groups of not less than 4 individuals.

The Federal Government reiterates the basic principle under the ADMS Block Grant program that a State has discretion over the manner in which this new requirement is implemented so long as the State's position is not clearly erroneous.

Creation of the Fund

States are required to establish a revolving fund in the amount of $100,000. There is no legislative requirement concerning the source of monies required to establish the fund. Therefore, monies used to establish the revolving fund may come from any source not otherwise restricted by Federal, State, or local entities. As an example, States may accept contributions from outside sources; may use discretionary funds emanating from the ADMS Block Grant; or may use general State revenues.

The revolving fund is to be self-sustaining. Program-generated funds (e.g. loan paybacks) should be reinvested into the revolving fund as should interest or dividends earned by the account.

There are no legislative restrictions on spending patterns other than setting a limit of $4,000 per loan. Limitations addressing these and other factors are entirely at the State's discretion.

Purpose of the Fund

Funds are to be used to provide small start-up loans to groups of recovering individuals. States should identify and clearly define purposes for which the State will authorize the expenditure of funds. All of those purposes must be in accordance with the legislation.

Examples of legitimate uses of revolving fund loans are: security deposit; first month's rent; furniture such as beds; facility modifications (e.g. conversion of a basement into a game room or extra bedroom); purchase of amenities which foster healthy group living (e.g. dishwasher).

Management of the Fund

States must establish, directly or through the provision of a grant or contract to a non-profit private entity, a revolving fund.

If authorized by a State's law, the State may manage the revolving fund through commercial banks, or directly. States may opt to place management of the fund at any organizational position within their respective hierarchies, e.g., in the offices of the comptroller, housing authority, or health care system.

On the other hand, States may opt to or be required by State Constitution to estabish a fund management group through the provision of a grant or contract to a non-profit private entity. Examples of such entities are: State credit unions; community action groups; foundations; not-for-profit alcohol and drug abuse service providers.

In every case, the fund management group must abide by existing Federal, State, and local regulations governing the operation of financial entities as well as those governing private non-profit organizations. They must have demonstrated capabilities of administering such a program at a level of professionalism and in accordance with standards acceptable to the State including proper notification for late payments.

Establishment of criteria for selecting a fund management group is at the discretion of the State. Consideration should be given to the qualifications, expertise, experience, and capabilities of those organizations.

Recordkeeping and auditing of the fund management operation should be in accordance with established policies and procedures governing similar financial institutions in the State.

Loan Configuration

By law, individual loans for the establishment of programs to provide housing may not exceed $4,000 each. The loans are to be repaid within a 2-year period (See repayment requirements below).

There is no legislative limitation on the number of times a group may apply for a loan to start-up a new recovery house.

States should use their discretion in establishing methods of paying out the funds, e.g., in a lump sum, by monthly draw, or by reimbursement.

Designation of Loan Approval Authority

States may request assistance to approve/deny applications for loans from any entity (individual or group of individuals) meeting State-established criteria. Determinations of terms of office, appointment method, credentials required, etc., are at the discretion of the State. Examples are an advisory board of volunteers or a non-profit organization dedicated to the principle of self-help addiction recovery.

Borrower Eligibility Criteria

Generally, loan applicants may be considered eligible if they are non-profit private entities and agree to operate the housing in a self-run and self-supported manner, including responsibility by residents of the housing for repayment of the loan according to its terms, and assure that its residents are free of alcohol and drug use.

As stipulated in the legislation, prospective borrowers must be non-profit private entities. They must agree: (1) To maintain the house as an alcohol and drug free environment; (2) that residents of the house will remain alcohol and drug free; (3) that any resident of the house who violates the pledge will be expelled from the house; (4) that the costs of the housing, including rent and utilities, will be borne by the residents; and (5) that the house will be operated as a self-managed democracy.

In determining eligibility of prospective borrowers, States (or their designees) may wish to consider such elements as: assurances that the stated intended use of the funds is in accordance with the legislation; reasonable assurances that the group can manage their own alcohol and drug free recovery housing; an assessment of the group's "ability to pay;" and special populations, such as alcohol and drug dependent individuals who are homeless.

There is no legislative requirement that the group acquire sponsorship or affiliate with treatment, rehabilitation, or other groups. However, affiliation of the new group home with such organizations encourages the recovery community to provide quality control.

Application Procedure

Each State (or its designee) should establish a procedure and process for applying for a loan under this program. The loan approval authority may wish to require, as an example, the completion of application forms, or face to face interviews with prospective borrowers. Submission of evidence to support assertions is at the discretion of the State as is the method of verifying eligiblity.

Timelines, milestones, required documentation, and procedures should be clearly defined, written, and made available to all applicants.

Repayment Requirements

The law stipulates that each loan is to be repaid through monthly installments and that each such loan is to be repaid to the revolving fund not later than 2 years after the date on which the loan is made. Further, a reasonable penalty is to be assessed for each failure to pay such periodic installments by the date specified in the loan agreement.

Repayment schedules and prescribed penalties for late or missing payments should be established by the State. In the event a given group appears unable to satisfy the loan obligation, States may consider alerting the quality control group to determine what assistance the group in arrears might need.

Liability and recourse for default is to be determined by the State.

Quality Control

Quality control is simply the assurance that the homes stay alcohol and drug free, pay their bills, and are run democratically.

States may wish to establish a quality control group whose general purpose would be to see that the program is operated in a legal, viable, and effective manner. Membership in this group, its location in an organizational structure, its responsibilities, and its authorities would be established by the State.

By virtue of the requirement that a house be self-governed, the residents could be construed as a quality control group. The State may consider requiring

its fund management group to acquire corroboration that the recovery house is operating in compliance with its obligations.

Reporting

States may be requested to provide information on the establishment/operation of Group Homes under these Guidelines. Data reporting requirements, if any, will be addressed through the Alcohol and Drug Abuse and Mental Health Services (ADMS) Block Grant reporting mechanism.

Evaluation

States are advised that, as part of an overall effort to assess the quality and effectiveness of services programs, section 2039 of the Anti-Drug Abuse Act of 1988 requires the Secretary to evaluate alcohol and drug abuse treatment programs to determine the quality and appropriateness of various forms of treatment, including the effect of living in group housing. Therefore, it is recommended that programs established under this new provision of law have in place a system for measuring progress and effectiveness. The system should include periodic, objective measures by individuals who are not recipients of the loan or who have no direct responsibility with administering the loan.

Contact

These guidelines provide a brief summary of basic principles and issues relating to the administration of a revolving loan program to provide group homes for recovering alochol and drug abusers. Further information may be obtained from Mr. Gary Palsgrove, Alcohol, Drug Abuse, and Mental Health Administration, 5600 Fishers Lane, Rockville, MD 20857. Mr. Palsgrove may be telephoned at 301–443–3820.

For additional program guidance, potential applicants should contact the appropriate State alcohol, drug abuse, or mental health authority.

The requirement for establishing the Group Homes for Recovering Substance Abusers program is contained in legislation which authorizes the Alcohol and Drug Abuse and Mental Health Services Block Grant program. See Catalog of Federal Domestic Assistance Number 13.992.

Joseph R. Leone,

Associate Administrator for Management, Alcohol, Drug Abuse and Mental Health Administration.

[FR Doc. 89–9289 Filed 4–18–89; 8:45 am]

BILLING CODE 4160–20–M

Food and Drug Administration

[Docket No. 89N–0075]

Ormont Drug and Chemical Co., Inc.; Proposal to Withdraw Approval of NADA, Opportunity for Hearing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is providing an opportunity for hearing on the proposal to withdraw approval of the new animal drug application (NADA) held by Parlam Division, Ormont Drug and Chemical Co., Inc. The NADA provides for the use of 25 percent squalene in mineral oil for removal of earwax in dogs and cats. FDA is proposing this action because the firm failed to file the required reports or to provide any information to identify itself and its correct mailing address as required by the agency's regulations.

DATES: A written hearing request by May 19, 1989. Data and analysis supporting the request for hearing by June 19, 1989.

ADDRESS: Written hearing request, data, information, and analysis to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Mohammad I. Sharar, Center for Veterinary Medicine (HFV–216), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4093.

SUPPLEMENTARY INFORMATION: The Center for Veterinary Medicine (CVM) is providing an opportunity for hearing on the proposal to withdraw approval of NADA 12–232 held by Parlam Division, Ormont Drug and Chemical Co., Inc., 520 South Dean St., Englewood, NJ 07631. The NADA provides for use of Sebumsol 25 percent (25 percent squalene in mineral oil) as a cerumenolytic agent for removal of earwax in dogs and cats. The NADA was orignally approved April 21, 1960. It was one of several which were the subject of a notice of opportunity for hearing on the proposed withdrawal of approval of the NADA's (36 FR 8065 at 8070; April 29, 1971) (See No. 178) on the basis of the sponsor's failure to submit the required reports as provided in a notice published in the **Federal Register** of July 9, 1966 (31 FR 9426). The 1971 notice required submission of certain data, including data supporting effectiveness of the products, to facilitate the National Academy of Sciences-National Research Council (NAS/NRC) review.

Parlam submitted data and information in response to the notice of opportunity for hearing of April 29, 1971, and requested evaluation before withdrawal of the product. After evaluation of Parlam's submission, FDA published an amended notice of opportunity for hearing (37 FR 7110; April 8, 1972) which stated that Sebumsol 25 percent is effective as a cerumenolytic agent for removal of earwax for dogs and cats. The sponsor was provided 6 months to submit adequate final printed labeling and documentation to support a regulation, and to submit adequate information as to current manufacturing, components and composition, and methods, facilities, and controls.

On October 17, 1980, the firm filed the required information with FDA. On April 21, 1981, FDA wrote the firm approving the submission as a supplement and requesting final printed labeling and updated manufacturing methods and controls. On July 7, 1981, the firm filed a drug experience report. The firm failed to file any further reports or information and was declared delinquent concerning those reports on June 30, 1983. Subsequently, FDA has been unable to contact the firm and has not received further contact from them. Additional investigation has revealed the firm is no longer at the address given in its application, and neither the firm nor its parent company has been located within the United States. Therefore, FDA has concluded that the firm is no longer manufacturing or marketing new animal drugs in the United States, and apparently, has abandoned the NADA.

Accordingly, CVM is proposing to withdraw approval of NADA 12–232 and all amendments and supplements thereto under section 512(e)(2)(A) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360b(e)(2)(A)). Notice is given to Parlam Division, Ormont Drug and Chemical Co., Inc., and to any other interested persons who may be adversely affected, that CVM proposes to issue an order under section 512(e)(2)(A) of the act withdrawing approval of NADA 12–232 and all amendments and supplements thereto on the grounds that the applicant has failed to file the required reports under 21 CFR 510.300. Furthermore, the firm failed to provide any information as required by 21 CFR 514.1(b)(1) to identify itself and its current mailing address.

In accordance with provisions of section 512 of the act and regulations promulgated under it (21 CFR Part 514) and under authority delegated to the Director, Center for Veterinary Medicine

(21 CFR 5.84). CVM hereby provides an opportunity for hearing to show why approval of NADA 12–232 and all amendments and supplements to that application should not be withdrawn under section 512(e) of the act. Any hearing would be subject to the provisions of 21 CFR Part 12.

If Parlam Division, Ormont Drug and Chemical Co., Inc., decides to seek a hearing, the firm shall file on or before May 19, 1989 a written request for hearing and on or before June 19, 1989 the data, information, and analysis relied upon to support the request for hearing, as specified in 21 CFR 514.200.

Procedures and requirements governing the notice of opportunity for hearing, request for hearing, submission of data, information, and analysis to justify a hearing, other comments, and a grant or denial of hearing are contained in 21 CFR 514.200.

The failure of a sponsor to file a timely, written request for hearing as required by 21 CFR 514.200 shall constitute a waiver of the right to a hearing, as shall the failure of the sponsor to submit any data, information, or analysis in support of its hearing request. In either of those circumstances, CVM will summarily enter a final order withdrawing approval of the application.

A request for hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the documentation and analysis in the request for hearing that there is no genuine and substantial issue of fact that precludes the withdrawal of approval, or that the request for hearing is not made in the required format or with the required analysis, the Commissioner of Food and Drugs will enter summary judgment against the person who requests the hearing, making findings and conclusions, and denying a hearing. If a hearing is requested and is justified by the sponsor's response to this notice, the issues will be defined, an administrative law judge will be assigned, and a written notice of the time and place at which the hearing will begin will be issued as soon as practicable.

The agency has determined under 21 CFR 25.24(d)(3) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

All submissions under this notice shall be filed in four copies, and, except as provided in 21 CFR 10.20(j), may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (section 512, 82 Stat. 343–351 (21 U.S.C. 360b)) and under authority delegated to the Director, Center for Veterinary Medicine (21 CFR 5.84).

Dated: April 13, 1989.

Gerald B. Guest,

Director, Center for Veterinary Medicine.

[FR Doc. 89–9272 Filed 4–18–89; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 85F–0260]

National Pork Producers Council; Withdrawal of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the withdrawal, without prejudice to a future filing, of a petition (FAP 5M3867) proposing that the food additive regulations be amended to provide for the safe use of a source of gamma radiation, electron radiation, or x-radiation to control trichinae in pork and pork products.

FOR FURTHER INFORMATION CONTACT: Clyde A. Takeguchi, Center for Food Safety and Applied Nutrition (HFF–330), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202–472–5740.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of June 25, 1985 (50 FR 26270), FDA published a notice that it had filed a petition (FAP 5M3867) from the National Pork Producers Council, 1015 15th St. NW., Suite 402, Washington, DC 20005, that propose to amend the food additive regulations to provide for the safe use of sources of gamma radiation, electron radiation, and x-radiation to control trichinae in pork and pork products.

In the **Federal Register** of July 22, 1985 (50 FR 29656), FDA amended the food additive regulations in response to a petition by Radiation Technology, Inc., to permit gamma radiation treatment of pork to control *Trichinella spiralis*. In the **Federal Register** of April 18, 1986 (51 FR 13376), FDA amended the food additive regulations to permit the use of sources of election and x-radiation to treat pork.

The National Pork Producers Council believes that the intent of its additive petition has been met by the agency's actions discussed above, and has withdrawn the petition without prejudice to a future filing (21 CFR 171.7).

Dated: April 6, 1989.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 89–9348 Filed 4–18–89; 8:45 am]

BILLING CODE 4160-01-M

Public Health Service

Health Resources and Services Administration; National Vaccine Injury Compensation Program; List of Petitions Received

AGENCY: Public Health Service, HHS.

ACTION: Notice.

SUMMARY: The Public Health Service (PHS) is publishing this notice of petitions received under the National Vaccine Injury Compensation Program ("The Program"), as required by section 2112(b)(2) of the PHS Act, as amended. While the Secretary of Health and Human Services is named as the respondent in all proceedings brought by the filing of petitions for compensation under the Program, the United States Claims Court is charged by statute with responsibility for considering and acting upon the petitions.

FOR FURTHER INFORMATION CONTACT: For information about requirements for filing petitions, and the Program generally, contact the Clerk, United States Claims Court, 717 Madison Place NW., Washington, DC 20005, (202) 633–7257. For information on the Public Health Service's role in the Program, contact the Director, Vaccine Injury Compensation Program, Parklawn Building, 5600 Fishers Lane, Room 4–101, Rockville, MD 20857, (301) 443–6593.

SUPPLEMENTARY INFORMATION: The Program provides a system of no-fault compensation for certain individuals who have been injured by specified childhood vaccines. Subtitle 2 of Title XXI of the PHS Act, 42 U.S.C. 300aa–10 *et seq.*, provides that those seeking compensation are to file a petition with the U.S. Claims Court and to serve a copy of the petition on the Secretary of Health and Human Services, who is named as the respondent in each proceeding. The Secretary has delegated his responsibility under the Program to PHS. The Claims Court is directed by statute to appoint special masters to take evidence, conduct hearings as appropriate, and to submit to the Court proposed findings of fact and conclusions of law.

A petition may be filed with respect to injuries, disabilities, illnesses, conditions, and deaths resulting from vaccines described in the Vaccine Injury Table set forth at section 2114 of the PHS Act. This Table lists for each covered childhood vaccine the conditions which will lead to compensation and, for each condition, the time period for occurrence of the first symptoms or manifestation of onset or of significant aggravation after vaccine administration. Compensation may also be awarded for conditions not listed in the Table and for conditions that are manifested after the time periods specified in the Table, but only if the petitioner shows that the condition was caused by one of the listed vaccines.

Section 2112(b)(2) of the PHS Act, 42 U.S.C. 300aa–12(b)(2), requires that the Secretary publish in the **Federal Register** a notice of each petition filed. Set forth below is a list of petitions received by PHS from March 8 through April 5, 1989. Section 2112(b)(2) also provides that the special matter "shall afford all interested persons an opportunity to submit relevant, written information" relating to the following:

1. The existence of evidence "that there is not a preponderance of the evidence that the illness, disability, injury, conditions or death described in the petition is due to factors unrelated to the administration of the vaccine described in the petition," and

2. Any allegation in a petition that the petitioner either:

(a) "Sustained, or had significantly aggravated, any illness, disability, injury, or condition not set forth in the Vaccine Injury Table (see section 2114 of the PHS Act) but which was caused by" one of the vaccines referred to in the table, or

(b) "Sustained, or had significantly aggravated, any illness, disability, injury, or condition set forth in the Vaccine Injury Table the first symptom or manifestation of the onset or significant aggravation of which did not occur within the time period set forth in the Table but which was caused by a vaccine" referred to in the Table.

This notice will also serve as the special master's invitation to all interested persons to submit written information relevant to the issues described above in the case of the petitions listed below. Any person choosing to do so should file an original and three (3) copies of the information with the Clerk of the U.S. Claims Court at the address listed above (under the heading "For Further Information Contact"), with a copy to PHS addressed to Director, Bureau of Health Professions, 5600 Fishers Lane, Suite 8–05, Rockville, MD 20857. The Court's caption (Petitioner's Name v. Secretary of Health and Human Services) and the docket number assigned to the petition should be used as the caption for the written submission.

Chapter 35 of Title 44, United States Code, related to paperwork reduction, does not apply to information required for purposes of carrying out the Program.

List of Petitions Received

1. Barbara Holton and Ralph Holton on Behalf of Kasey Holton, Las Vegas, Nevada, Claims Court Docket No. 89–22V.

2. Michelle L. Jose and Daniel C. Jose on Behalf of Danielle Sue Jose, Loomis, California, Claims Court Docket No. 89–23V.

3. Diane Bunger and David Bunger on Behalf of Tara Bunger, San Jose, California, Claims Court Docket No. 89–24V.

4. Gloria Banuelos on Behalf of Anna Gloria Banuelos, Sacramento, California, Claims Court Docket No. 89–25V.

5. Diana Satterfield and Mark Satterfield on Behalf of Ryan Satterfield, Elf Grove, California, Claims Court Docket No. 89–26V.

6. Michael Latorre on Behalf of Marcus Raymond Latorre, Orange County, California, Claims Court Docket No. 89–27V.

7. Barbara Sexton and Ronald C. Sexton on Behalf of Andrew Sexton, Orangevale, California, Claims Court Docket No. 89–28V.

8. Maria Merrill on Behalf of Daniel Merrill, Sacramento, California, Claims Court Docket No. 89–29V.

9. Anna Jorge and Eduardo Jorge on Behalf of Nicole Cristine Jorge, Watsonville, California, Claims Court Docket No. 89–30V.

10. Joyce Alger and Edmund Alger on Behalf of Daniel Alger, Palm Bay, Florida, Claims Court Docket No. 89–31V.

11. Josephine Wright and Jerryl Wright on Behalf of Justin D. Wright, Indianapolis, Indiana, Claims Court Docket No. 89–32V.

12. Cindy A. Lemon on Behalf of Gretchen Lemon, Slidell, Louisiana, Claims Court Docket No. 89–33V.

Dated: April 13, 1989.

John H. Kelso,

Acting Administrator.

[FR Doc. 89–9268 Filed 4–18–89; 8:45 am]

BILLING CODE 4160–15–M

Statement of Organization, Functions, and Delegations of Authority; Food and Drug Administration

Part H, Chapter HF (Food and Drug Administration) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (35 FR 3685, February 25, 1970, as amended most recently in pertinent part at 51 FR 8032, March 7, 1986 and 54 FR 6338–9, February 9, 1989) is amended to reflect the transfer of a function in the Food and Drug Administration.

FDA proposes to transfer the Agency statistical support function to the Office of Planning and Evaluation from the Office of Health Affairs in the Center for Devices and Radiological Health.

Section HF–B Organization and Functions is amended as follows:

1. Delete subparagraph (b–2) Evaluation and Analysis Staff (HFAA4) in its entirety and insert a new subparagraph (b–2) Evaluation and Analysis Staff (HFAA4) reading as follows:

(b–2) *Evaluation and Analysis Staff (HFAA4).* Performs agency program and policy evaluations and analytical studies. Recommends alternative courses of action to increase effectiveness of Agency allocation of resources and to improve program and project performance.

Performs analyses of significantly broad Agency issues identified in the planning process. Recommends and/or implements steps to resolve these issues.

Assures that appropriate program evaluation activities are taken in Agency components. Monitors and coordinates these efforts to assure uniqueness and a contribution to Agency program goals.

Develops the annual evaluation plan for the Agency and coordinates with PHS/HHS.

Conducts special evaluation, analytical, and economic-related studies in support of Agency policy development and in resolution of broad Agency problems.

Evaluates impact of external factors on Agency programs, including consumer expectations and prospective legislation.

Evaluates the impact of Agency operations and policies on regulated industries and other Agency components.

Evaluates Program Management Systems (PMS) projects to provide a basis for Agency decisionmaking. Recommends PMS project selections for evaluation, conducts the evaluations,

and provides written and/or oral reports to the Commissioner and/or program managers.

Approves survey methodology, design, and questionnaires within the Agency prior to Office of Management and Budget forms clearance under the Paperwork Reduction Act; reviews Memoranda of Need which require the collection of health research data and advises Agency components on the planning and design of health research studies.

Advises international health organizations (e.g., World Health Organization) on the use of program evaluation to strengthen program operations in member countries.

2. Delete paragraph (o–1–iii) Office of Health Affairs (HFW13) in its entirety, and insert a new paragraph (o–1–iii) Office of Health Affairs (HFW13) reading as follows:

(o–1–iii) *Office of Health Affairs (HFW13).* Advises the Center Director on medical and dental issues that affect Center policies, direction, and program goals.

Provides medical and dental consultation, advice, and guidance on policies, activities, and programs.

Provides senior medical review, support and assistance to Center regulatory activities and programs.

Develops, coordinates, and provides professional medical guidance on Center policies, position statements, and program activities that involve or significantly impact on radiological and medical device safety.

Provides medical and dental consultation and expertise to the Center and interagency groups and committees addressing radiological and medical device health concerns; acts as the Executive Secretariat for the Medical Radiation Advisory Committee.

Advises and assists in identification and selection of individuals to serve on the Center's Advisory and Classification Committees.

Plans, conducts, coordinates, and serves as Center medical representative on liaison activities with health professionals and their organizations to secure their input and assistance in the formulation and implementation of Center programs.

Participates in the planning and coordination of educational and informational programs for health professional organizations.

Date: April 11, 1989.

Wilford J. Forbush,

Director, Office of Management, PHS.

[FR Doc. 89–9278 Filed 4–18–89; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing-Federal Housing Commissioner

[Docket No. N–89–1917; FR–2606]

Underutilized and Unutilized Federal Buildings and Real Property Determined To Be Suitable for Use for Facilities To Assist the Homeless

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

ACTION: Notice.

SUMMARY: This Notice identifies unutilized and underutilized Federal property determined by HUD to be suitable for possible use for facilities to assist the homeless.

DATE: April 19, 1989.

ADDRESS: For further information, contact Morris Bourne, Director, Transitional Housing Development Staff, Room 9140, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 755–9075; TDD number for the hearing- and speech-impaired (202) 426–0015. (These telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 court order in *National Coalition for the Homeless v. Veterans Administration*, D.C.D.C. No. 88–2503–OG, HUD is publishing this Notice to identify Federal buildings and real property that HUD has determined are suitable for use for facilities to assist the homeless. The properties were identified from information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property.

The court order requires HUD to take certain steps to implement section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), which sets out a process by which unutilized or underutilized Federal properties may be made available to the homeless. Under section 501(a), HUD is to collect information from Federal landholding agencies about such properties and then to determine, under criteria developed in consultation with the Department of Health and Human Services (HHS) and the Administration of General Services (GSA), which of those properties are suitable for facilities to assist the homeless. The court order requires HUD to publish, on a weekly basis, a Notice in the **Federal Register** identifying property determined suitable.

The properties identified in this Notice may ultimately be available for use by public bodies and private nonprofit organizations to assist the homeless For detailed information on the procedure under section 510(a) that must be followed to apply for use of today's properties, the reader should consult HUD's Notice published February 7, 1988 at 54 FR 6034.

Although not required to do so by either section 501 or the court order, HUD is identifying property, from the information furnished by landholding agencies or GSA, determined unsuitable for use for facilities to assist the homeless, along with the reason for the finding. The court order prohibits the sale, transfer, or other disposition of property found unsuitable for a period of two weeks following the determination.

The contact for GSA properties listed in today's Notice is James Folliard, Federal Property Resources Services, GSA, 18th and F Streets NW, Washington, DC 20405 (202) 535–7067. Please refer to the GSA identification number of the property. The contact for Department of Transportation properties listed in today's Notice is Angelo Picillo, Administrative Services and Property Management, Department of Transportation, 400 Seventh Street SW., Washington, DC 20590 (202) 366–4246. (These are not toll-free telephone numbers.)

Dated: April 13, 1989.

James E. Schoenberger,

General Deputy Assistant Secretary for Housing—Federal Housing Commissioner.

Underutilized and Unutilized Property

Suitable Land

Department of Transportation

Moline Transfer Facility (1), 11th and Fifth Avenue, Moline, IL

Suitable Buildings

Department of Transportation

Brownsville Urban System (1), 700 South Iowa Avenue, Brownsville, TX 78520

Unsuitable Buildings

USAF

North Bend Air National Guard Station (14), North Bend, OR. Reason: Isolated area; secured area; on mountain top

Excess and Surplus Property (GSA)

Suitable Land

Portion, Former Correctional Institute (1), W. Hampden Avenue, Jefferson

County, CO. Property No. 7–GR(1)–C0–475A

Suitable Buildings

Building KI–2000 Health Clinic (1), Navaho Reservation, Kaibeto, AZ 86053. (No number provided)

Comment: Use restricted to Navaho Indians (to be transferred to the Dept. of Interior).

Dulce Health Center (1), P.O. Box 167, Dulce, NM. (No number provided)

Comment: Reserved for use by Indian tribes only.

Sequoyah Indian School Land (1), Tahlequah, OK. (No number provided)

Comment: Used as an Indian School; held in trust for Indian tribes by Dept. of Interior.

Emerald Heights Housing Area (84), (Formerly Tongue Point Naval Station), Astoria, OR. (No number provided)

Comment: Used as rental units for approximately 1000 persons.

Portion, Little Sandy Creek Rd. and Fork (1), Ravenswood, WV. Property No. 4–G–WV–487

Comment: Used as a hunting area.

Unsuitable Land

Portion, Lewes and Rehoboth Canal (1), Sussex County, DE. Reason: Isolated area; Not accessible by road; Other environmental. (Revision to previous determination published 2/7/89, based on new info from GSA.) (No number provided)

Comment: 90% of land is swampland; no utilities.

Portion, Buckhorn Lake Project (1), Hyden, KY. Reason: Property on side of a mountain on steep incline. Property No. 4–D–KY–577

Lake Henry VORTAC Site (20), Lackawanna County, PA. Reason: Isolated area; Not accessible by road; FAA anetnna on center of property; other above-ground structures prohibited. Property No. 4–U–PA–736

Portion, Whitney Lake (1), Tract V–2062 Polk Ave./San Antonio St., Whitney, TX. Reason: Floodway. Property No. 7–GR–TX–505–E

Comment: Flowage easement; no structure below 573' contour allowed for human habitiation.

Unsuitable Buildings

George P. Miller Federal Building (1), 1515 Clay Street, Oakland, CA. Reason: Other environmental. Property No. 9–G–CA–1286

Comment: PCBs, asbestos present; seismic, structural and fire safety deficiencies.

[FR Doc. 89–9317 Filed 4–18–89; 8:45 am]

BILLING CODE 4210–27–M

COMMISSION FOR THE IMPROVEMENT OF THE FEDERAL CROP INSURANCE PROGRAM

Meeting

Under the Federal Crop Insurance Commission Act of 1988 (7 U.S.C. 1508 note); notice is hereby given of the following meeting of the Commission for the Improvement of the Federal Crop Insurance Program:

Date: April 26–27, 1989.

Time: 1:00 p.m.–5:30 p.m., April 26; 8:00 a.m.–Noon; 1:00 p.m.–5:30 p.m., April 27.

Place: Hotel Washington, 15th Street and Pennsylvania Avenue, NW., Washington, DC 20004, Telephone: (202) 638–5900.

Type of Meeting: Open to the public.

Comments: The public may file written comments before or after the meeting with the contact person listed below.

Purpose: To continue discussions on the development of recommendations to improve the Federal crop insurance program.

Contact Person: Kellye A. Eversole, Executive Director, Commission for the Improvement of the Federal Crop Insurance Program, 1255 23rd Street, NW., Suite 880, Washington, DC 20037. Telephone: (202) 887–6700.

Done at Washington, DC, this 17th day of April 1989.

Kellye A. Eversole,

Executive Director.

[FR Doc. 89–9545 Filed 4–18–89; 8:45 am]

BILLING CODE 3410–FM–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM–940–09–4214–10; NM NM 55234]

Proposed Modification and Partial Termination of Public Land Order No. 6403 and Public Hearings; New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The U.S. Department of Energy (DOE) has filed an application to modify a public land order which withdrew 10,240 acres of public land for research and development in connection with the Waste Isolation Pilot Plant (WIPP) Project. The land is still needed for research and development on the WIPP Project. This order also terminates the public land order as to paragraph 5. The land will remain closed to operation of the public laws including the mining laws. The land will remain open to mineral leasing.

FOR FURTHER INFORMATION CONTACT: Clarence F. Hougland, BLM, New Mexico State Office, P.O. Box 1449, Santa Fe, New Mexico 87504–1449, 505–988–6071.

SUPPLEMENTARY INFORMATION: On April 7, 1989, the DOE filed an application for modification of Public Land Order No. 6403, which withdrew the following described land from settlement, sale, location or entry under the general laws, including the mining laws, subject to valid existing rights:

New Mexico Principal Meridian

T. 22 S., R. 31 E.,
- Sec. 15;
- Sec. 16;
- Sec. 17;
- Sec. 18, lots 1, 2, 3, 4, inclusive, E½, and E½W½;
- Sec. 19, lots 1, 2, 3, 4, inclusive, E½, and E½W½;
- Sec. 20;
- Sec. 21;
- Sec. 22;
- Sec. 27;
- Sec. 28;
- Sec. 29;
- Sec. 30, lots, 1, 2, 3, 4, inclusive, E½, and E½W½;
- Sec. 31, lots 1, 2, 3, 4, inclusive, E½, and E½W½;
- Sec. 32;
- Sec. 33;
- Sec. 34.

The area described contains approximately 10,240 acres of public land in Eddy County, New Mexico.

The following land, within the above legal land description, will be reserved for the exclusive use of DOE for the WIPP Project:

A tract of land in Eddy County, New Mexico, being part of Sections 20, 21, 28, and 29, Township 22 South, Range 31 East, N.M.P.M., and being more particularly described as follows, to wit: Beginning at a point on the North line of said Section 20 which is S 89 degrees 57 minutes E a distance of 1,378.68 feet from the Northwest corner of said Section 20; Thence S 89 degrees 57 minutes E a distance of 3,900.00 feet to the corner common to Sections 16, 17, 20, and 21; Thence N 89 degrees 51 minutes E a distance of 3,160.66 feet to a point from which the corner common to Sections 15, 16, 21, and 22 bears N 89 degrees 51 minutes E a distance 2,120.00 feet; Thence S 00 degrees 01 minutes 16 seconds E a distance of 5,279.97 feet to a point on the line between Sections 21 and 28 from which the corner common to Sections

21, 22, 27, and 28 bears N 89 degrees 56 minutes E a distance of 2,118.71 feet and the corner common to Sections 20, 21, 28, and 29 bears S. 89 degrees 56 minutes W a distance of 3,160.63 feet; Thence continuing S 00 degrees 01 minutes 16 seconds E a distance of 3,697.74 feet to a point from which the corner common to Sections 27, 28, 33, and 34 bears South 1,580.0 feet and East 2,120.0 feet; Thence N 89 degrees 59 minutes 27 seconds W a distance of 3,159.63 feet to a point on the line between Sections 28 and 29 from which the corner common to Sections 20, 21, 28, and 29 bears N 00 degrees 02 minutes 35 seconds W a distance of 3,693.55 feet and the corner common to Sections 28, 29, 32, and 33 bears S 00 degrees 02 minutes 35 seconds E a distance of 1,580.51 feet; Thence continuing N 89 degrees 59 minutes 27 seconds W a distance of 3,897.93 feet to a point from which the corner common to Sections 29, 30, 31, and 32 bears S 00 degrees 01 minutes W 1,580.0 feet and N 89 degrees 59 minutes W 1,379.34 feet; Thence N 00 degrees 02 minutes 35 seconds W a distance of 3,696.32 feet to a point on the line between Sections 20 and 29 from which the corner common to Sections 20, 21, 28, and 29 bears S 89 degrees 57 minutes E a distance of 3,898.21 feet and the corner common to Sections 19, 20, 29, and 30 bears N 89 degrees 57 minutes W a distance of 1,381.13 feet; Thence continuing N 00 degrees 02 minutes 27 seconds W a distance of 5,275.39 feet to the point of beginning.

The area described contains 1,453.9 acres, more or less, in Eddy County, New Mexico.

The DOE requests this modification to change the purpose of the land withdrawal stated in paragraph 1 of Public Land Order No. 6403 to provide that the land is withdrawn for the purpose of the construction of full facilities for the WIPP Project of the DOE; the conducting of a test program by the DOE using retrievable radioactive waste at the site; and to protect the land pending a legislative withdrawal; to delete paragraph 5 of Public Land Order No. 6403, which prohibits the use of the withdrawn land for the transportation, storage, or burial of radioactive material; to increase the DOE exclusive control area from 640 acres to 1,453.9 acres to conform that area to security requirements; and to extend the term of the withdrawal through June 29, 1997, to provide sufficient time to conduct an operations and experimental program, and for retrieval of the waste, if necessary.

The DOE is preparing a Supplemental Environmental Impact Statement (SEIS) for this next phase of the WIPP project. The Draft SEIS is scheduled to be released for public review on April 21, 1989. Because DOE submitted an application to BLM for a land withdrawal, BLM is participating as a cooperating agency in the SEIS.

Notice is hereby given that public hearings will be held by DOE during the public comment period on the draft SEIS in the following cities: Boise, ID; Albuquerque, NM; Santa Fe, NM; Atlanta, GA; Denver, CO; and Pendleton, OR. As soon as the specific locations, dates and times are determined, information on these public hearings will be announced by DOE. Public comments on the SEIS as well as those obtained from the public hearings will be used by BLM in processing the application for a land withdrawal.

The application will be processed in accordance with the regulations set forth in 43 CFR Part 2300.

Because this represents a modification of an earlier public land order which withdrew the subject land, no temporary land use during segregation will occur.

Larry L. Woodard,
State Director.
April 13, 1989.

[FR Doc. 89-9359 Filed 4-18-89; 8:45 am]
BILLING CODE 4310-FB-M

[NV-010-09-4132-08]

Intent To Prepare on Environmental Document on a Mining Plan of Operation; Scoping Period and Meeting; Barrick Goldstrike Mines, Inc.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent to prepare an environmental document on a mining plan of operation and notice of scoping period and meeting for Barrick Goldstrike Mines, Inc.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969 and 43 CFR Part 3809, the Bureau of Land Management will be directing the preparation of an environmental document to be prepared by a third party contractor on the impacts of a proposed amendment to an existing Plan of Operation for gold mining by Barrick Goldstrike Mine Inc. in Elko and Eureaka counties, Nevada. The Bureau invites written comments and suggestions on the scope of its analysis.

DATES: Written comments on the proposed Plan of Operations amendment will be accepted until May 19, 1989. A public scoping open house will be held May 2, 1989 from 7 p.m. to 9 p.m. at the Bureau of Land Management, Elko District Office, 3900 E. Idaho, Elko, NV 89801 to identify interested parties, issues, concerns, and to encourage public participation. Representatives of Barrick Goldstrike Mines Inc. will be available to answer questions about the Plan of Operations amendment. Additional meetings may be held, as appropriate.

ADDRESS: Comments may be sent to the District Manager, Bureau of Land Management, P.O. Box 831, Elko, NV 89801. ATTN: Goldstrike Coordinator.

FOR FURTHER INFORMATION CONTACT: For additional information, write to the above address or call Nick Rieger at (702) 738-4071.

SUPPLEMENTARY INFORMATION: Barrick Goldstrike Mines Inc. of Elko, Nevada has submitted an amendment to its existing Plan of Operations for the Goldstrike Mine located in Township 36 North, Range 49 East and Township 36 North, Range 50 East; approximately 25 miles northeast of the town of Carlin, Nevada. The presently authorized operation includes open-pit mines, heap leach facilities, a crushing and agglomeration plant, administrative and maintenance buildings, and a 6,000 ton per day oxide mill and tailings impoundment involving a total of 2,372 acres, including 1779 acres of public land. The proposed action is to expand the Goldstrike Mine open pit mining and milling operations from approximating 6,000 tons per day to approximately 12,700 tons per day. While much of the proposed expansion is expected to be confined to previously disturbed areas, additional disturbance is anticipated on approximated 33 acres of private land and 1,770 acres of public land.

The issues expected to be analyzed in the document are impacts to cultural resources, wildlife and fisheries, water quantity and quanlity, soils and vegetation, and social and economic values. Disciplines represented on the interdisciplinary team that will review the Plan amendment and environmental documentation are: Wildlife, recreation, geology, cultural resources, soil, water and air quality, range management, lands and realty and land use planning.

A range of alternatives, stipulations and mitigation measures, including but not limited to alternative reclamation measures, monitoring requirements and the no action alternative, will be considered to evaluate and minimize enviromental impacts and to assure that this proposed action does not result in undue or unnecessary degradation of public lands.

Federal, state and local agencies and other individuals or organizations who may be interested in or affected by the Bureau's decision on the amended Plan of Operations are invited to participate in the scoping process with respect to this environmental analysis.

Date: April 6, 1989.

Merle Good,

Acting District Manager.

[FR Doc. 89-9326 Filed 4-18-89; 8:45 am]

BILLING CODE 4310-HC-M

[U-942-09-4214-10; U-54908]

Cancellation of Proposed Withdrawal and Reservation of Land; Utah

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Notice of the Bureau of Land Management application U-54908 for the withdrawal and reservation of public land from all forms of appropriation under the public land laws, including the mining laws, was published in the **Federal Register** on April 21, 1987, (52 FR 70, page 13134). The Bureau of Land Management has cancelled its application in its entirety as to the following described land:

Salt Lake Meridian

T. 1 N., R. 9 W.,
Sec. 1, Lots 1, 2, SW¼NE¼, SW¼, NW¼ SE¼, S½SE¼;
Secs. 3 to 15, and 17, All;
Sec. 18, Lots 1-4, NE¼, E½W½, NE¼SE¼, S½SE¼;
Secs. 19 to 31, 33 to 35, All.
T. 1 S., R. 9 W.,
Secs. 1, 3 to 15, 17 to 31, 33 to 35, All.
T. 2 S., R. 9 W.,
Secs. 1, 3 to 6, All;
Sec. 7, Lots 1, 2, 4, E½, E½NW¼, NE¼ SW¼;
Secs. 8 to 15, 17 to 31, 33 to 35, All.
T. 3 S., R. 9 W.,
Secs. 1, 3 to 7, All;
Sec. 8, N½, N½SW¼, SE¼;
Secs. 9 to 15, All;
Sec. 17, E½, S½NW¼, SE¼;
Sec. 18, All.
T. 1 N., R. 10 W.,
Secs. 1, 3 to 15, 17 to 22, All;
Sec. 23, N½, N½SW¼, SW¼SW¼, SE¼;
Secs. 24 to 31, All;
Sec. 33, N½;
Secs. 34 and 35, All.
T. 1 S., R. 10 W.,
Secs. 1 and 3, All;
Sec. 4, S½NE¼, S½;
Sec. 5, Lots 3, 4, S½NW¼, S½;
Secs. 6 to 13, All;
Sec. 14, All, except for patented portion;
Secs. 15, 17 to 22, All;
Sec. 23, All, except for patented portion;
Secs. 24 to 31, 33 to 35, All.
T. 2 S., R. 10 W.,
Secs. 1, 3 to 15, 17 to 31, 33 to 35, All.
T. 3 S., R. 10 W.,
Secs. 1, 3 to 7, All;
Sec. 8, N½, SW¼, NE¼SE¼, S½SE¼;
Secs. 9 to 15, 17, 18, All.
T. 1 N., R. 11 W.,
Secs. 1, 3 to 15, 17 to 31, 33 to 35, All.
T. 1 S., R. 11 W.,
Secs. 1, 2 to 15, 17 to 31, 33 to 35, All.
T. 2 S., R. 11 W.,
Secs. 1, 3 to 15, 17 to 31, 33 to 35, All.
T. 3 S., R. 11 W.,
Secs. 1, 3 to 15, 17, 18, All.
T. 1 N., R. 12 W.,
Secs. 1, 3 to 15, 17 to 21, All;
Sec. 22, All, except for patented portion;
Secs. 23 to 26, All;
Sec. 27, All, except for patented portion;
Secs. 28 to 31, All;
Secs. 33 to 34, All, except patented portion;
Sec. 35, All.
T. 1 S., R. 12 W.,
Secs. 1, 3 to 15, 17 to 31, 33 to 35, All.
T. 2 S., R. 12 W.,
Secs. 1, 3 to 15, 17, 18, All.
T. 1 N., R. 13 W.,
Secs. 1, 3 to 15, 17 to 31, 33 to 35, All.
T. 1 S., R. 13 W.,
Secs. 1, 3 to 15, 17 to 31, 33 to 35, All.
T. 2 S., R. 13 W.,
Secs. 1, 3 to 15, 17, 18, All.
T. 1 N., R. 14 W.,
Secs. 1, 3, 10 to 15, 22 to 27, 34, 35, All.
T. 1 S., R. 14 W.,
Secs. 1, 3, 10 to 15, 22 to 27, 34, 35, All.
T. 2 S., R. 14 W.,
Secs. 1, 3, 10 to 15, All.

The area described contains 344,641.44 acres in Tooele County, Utah.

EFFECTIVE DATE: At 9 a.m. on April 20, 1989, the lands described above will be relieved of their segregative effect in accordance with the regulations under 43 2310.2-1(c), and opened to such forms of disposition as may be made by law including location and entry under the United States mining laws.

FOR FURTHER INFORMATION CONTACT: Mike Barnes, BLM Utah State Office, 324 South State Street, Suite 301, Salt Lake City, Utah 84111, (801) 539-4119.

Ted D. Stephenson,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 89-9331 Filed 4-18-89; 8:45 am]

BILLING CODE 4310-DQ-M

[MT-932-09-4214-10, MTM-12534]

Proposed Withdrawal and Opportunity for Public Meeting; Montana

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management proposes to withdraw approximately 94,023 acres of public lands and/or minerals to protect the resource values within the Upper Missouri Wild and Scenic River management area as well as the Lewis and Clark and the Nez Perce National Historic Trail areas. The notice closes the land for up to 2 years from surface entry and mining. The lands have been and remain open to mineral leasing.

DATE: Comments and requests for a public meeting must be received by July 18, 1989.

ADDRESS: Comments and meeting requests should be sent to the Montana State Director, BLM, P.O. Box 36800, Billings, Montana 59107.

FOR FURTHER INFORMATION CONTACT: James Binando, BLM Montana State Office, 406-255-2935.

SUPPLEMENTARY INFORMATION: On April 12, 1989 a petition was approved allowing the Bureau of Land Management to file an application to withdraw all public lands and/or minerals within the following described areas from settlement, sale, location, or entry under the general land laws, including the mining laws, subject to valid existing rights:

Principal Meridian

T. 26 N., R. 12 E.,
Secs. 1 to 4, inclusive;
Sec. 5, S½;
Sec. 6, SE¼;
Sec. 7, NE¼;
Sec. 8, N½;
Sec. 9, NW¼;
Sec. 10, N½NE¼;
Sec. 11, NE¼, N½NW¼, N½SE¼;
Secs. 12, 13;
Sec. 24, E½, E½W½;
Sec. 25, E½, E½W½;
Sec. 36, E½.
T. 27 N., R. 12 E.,
Sec. 26, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 33, S½SE¼;
Sec. 34, S½SW¼;
Sec. 35, E½, E½W½.
T. 23 N., R. 13 E.,
Sec. 3, NW¼NW¼;
Sec. 4, N½NE¼.
T. 24 N., R. 13 E.,
Secs. 3, 4;
Sec. 8, SW¼NW¼, N½SW¼, SE¼SW¼, S½SE¼;
Sec. 9;
Sec. 10, N½, SW¼, W½SE¼;
Sec. 15, W½;
Sec. 16;
Sec. 17, NE¼, E½NW¼;
Sec. 21, N½, N½Sw¼, SE¼;
Secs. 22 to 25, inclusive;
Sec. 26, N½, N½S½, SW¼SW¼;
Sec. 27;
Sec. 28, E½;
Sec. 33, E½;
Sec. 34, N½NE¼, W½;
Sec. 35, NW¼NW¼;
Sec. 36, N½, SE¼.
T. 25 N., R. 13 E.,
Sec. 4, W½NW¼, S½;
Sec. 5;
Sec. 6, E½E½, NW¼NE¼, NE¼NW¼;
Sec. 7, NE¼NE¼;
Secs. 8, 9;
Sec. 10, W½SW¼;
Secs. 14 to 16, inclusive;
Sec. 17, E½E½;
Sec. 20, E½E½, SW¼SE¼;

Sec. 21;
Sec. 22, N½NE¼, W½;
Sec. 27, W½;
Sec. 28;
Sec. 29, NE¼, NE¼SW¼, N½SE¼, SE¼SE¼;
Sec. 31, NE¼NE¼, S½NE¼, N½SE¼;
Sec. 32, NE¼NE¼, S½N½, NW¼NW¼, N½SW¼, SE¼SW¼, SE¼;
Sec. 33;
Sec. 34, W½.
T. 26 N., R. 13 E.,
Sec. 7, S½SW¼;
Sec. 18, W½;
Sec. 19, W½, NW¼SE¼, S½SE¼;
Sec. 29, SW¼;
Secs. 30, 31;
Sec. 32, S½NE¼, W½, SE¼.
T. 23 N., R. 14 E.,
Sec. 1, NE¼NE¼, S½NE¼, NW¼, S½;
Sec. 2, NE¼, NE¼NW¼, S½NW¼, S½;
Sec. 3, W½, SE¼;
Sec. 4;
Sec. 5, N½, N½S½;
Sec. 6, NE¼;
Sec. 9, E½, E½W½, NW¼NW¼;
Secs. 10 to 13, inclusive;
Sec. 14, N½, SE¼;
Sec. 15, N½;
Sec. 16, NE¼;
Sec. 23, N½NE¼, SE¼NE¼, NE¼SE¼;
Sec. 24;
Sec. 25, N½.
T. 24 N., R. 14 E.,
Sec. 19, lots 3 to 8, inclusive, and lots 13 to 18, inclusive;
Sec. 29, S½SE¼
Sec. 30, lots 3 to 8, inclusive, and lots 11 to 20, inclusive, SE¼;
Sec. 31, 32;
Sec. 33, NW¼NW¼, S½NW¼, SW¼;
Sec. 35, SE¼SW¼.
T. 22 N., R. 15 E.,
Secs. 1 to 5, inclusive;
Sec. 6, lots 1 to 5, inclusive, lots 11 to 13, inclusive, lot 22, S½NE¼, SE¼;
Sec. 9, N½, N½S½;
Sec. 10, N½, N½S½;
Sec. 11, N½, N½S½, S½SE¼;
Sec. 12.
T. 23 N., R. 15 E.,
Sec. 7, lots 13 to 18, inclusive;
Sec. 18, lots 1 to 20, inclusive;
Sec. 19, lots 1 to 20, inclusive; SE¼;
Sec. 25, SE¼NE¼, NE¼SE¼, S½S½;
Sec. 27, SW¼SW¼;
Sec. 28, S½S½;
Sec. 29, S½S½;
Secs. 30 to 33, inclusive;
Sec. 34, SW¼NE¼, W½NW¼, SE¼NW¼, S½;
Sec. 35, S½;
Sec. 36.
T. 22 N., R. 16 E.,
Sec. 4, W½W½;
Secs. 5, 6;
Sec. 7, N½, SW¼, N½SE¼, SW¼SE¼;
Sec. 8, NW¼, NW¼SW¼.
T. 23 N., R. 16E.,
Sec. 22, E½SW¼, SE¼;
Sec. 23, S½;
Sec. 24. S½;
Secs. 25 to 36, inclusive.
T. 22 N., R. 17 E.,
Sec. 1, N½.
T. 23 N., R. 17 E.,
Sec. 19, lots 11, 12, lots 15 to 18, inclusive, E½;
Secs. 20 to 30, inclusive;
Sec. 31, lots 1 to 12, inclusive, NE¼, N½SE¼;
Sec. 32, N½, N½SW¼, NW¼SE¼;
Sec. 33, N½NE¼, SW¼NE¼, NW¼
Sec. 34, NE¼, N½NW¼;
Sec. 35, N½;
Sec. 36.
T. 22 N., R. 18 E.,
Sec. 2, W½NW¼;
Sec. 3, N½;
Sec. 4, N½;
Sec. 5, N½;
Sec. 6, N½,
T. 23 N., R. 18 E.,
Sec. 11, SE¼SE¼;
Sec. 12, S½S½;
Sec. 13;
Sec. 14, E½E½, S½SW¼, SW¼SE¼;
Sec. 15, S½S½;
Secs. 22 to 27, inclusive;
Sec. 28, NE¼, NE¼NW¼, S½NW¼. S½;
Sec. 29, S½N½, S½;
Sec. 30, S½NE¼, NW¼, S½;
Secs. 31 to 34, inclusive;
Sec. 35, N½N½, SW¼NW¼, W½SW¼.
T. 23 N., R. 19 E.,
Secs. 1 to 4, inclusive;
Sec. 5, SE¼NE¼, NE¼SE¼, S½SE¼;
Sec. 7, S½S½;
Sec. 8, E½, S½SW¼;
Secs. 9, 10;
Sec. 11, N½;
Sec. 12;
Sec. 13, N½N½;
Sec. 15, N½;
Secs. 16 to 19, inclusive;
Sec. 20, N½, SW¼, N½SE¼, SW¼SE¼;
Sec. 21, N½, N½S½;
Sec. 29, W½NE¼, NW¼;
Sec. 30, N½.
T. 24 N., R. 19 E.,
Sec. 33, S½N½, S½;
Secs. 34 to 36, inclusive.
T. 23 N., R. 20 E.,
Secs. 1, 2;
Sec. 3, NE¼NE¼, S½N½, S½;
Sec. 4, S½N½, S½;
Sec. 5, NW¼NE¼, S½NE¼, NW¼, S½;
Secs. 6 to 11, inclusive;
Sec. 12, N½, SW¼, N½SE¼;
Sec. 14, N½;
Sec. 15, N½;
Sec. 16;
Sec. 17, N½;
Sec. 18, N½.
T. 24 N., R. 20 E.,
Sec. 31, W½, S½SE¼;
Sec. 32, S½SW¼, SW¼SE¼;
Sec. 34, E½SE¼;
Sec. 35, S½;
Sec. 36.
T. 23 N., R. 21 E.,
Sec. 1;
Sec. 2, N½, N½S½;
Sec. 3, N½, SW¼, N½SE¼, SW¼SE¼;
Secs. 4 to 6, inclusive;
Sec. 7, N½, N½S½;
Sec. 8, N½, N½S½;
Sec. 9, N½, N½S½;
Sec. 10, NW¼NE¼, N½NW¼;
Sec. 12, E½;
Sec. 13, E½;
Sec. 24, E½;
Sec. 25, E½;
Sec. 36, N½NE¼.
T. 24 N., R. 21 E.,
Sec. 25, SW¼;
Sec. 26, S½;
Sec. 27, S½;
Sec. 28, S½;
Secs. 30 to 35, inclusive;
Sec. 36, S½NE¼, W½, SE¼.
T. 22 N., R. 22 E.,
Secs. 1, 2;
Sec. 3, E½
Sec. 12, NE¼, E½NW¼, NE¼SW¼, N½SE¼.
T. 23 N., R. 22 E.,
Sec. 4, W½;
Secs. 5 to 8, inclusive;
Sec. 9, W½;
Sec. 16, W½;
Secs. 17 to 23, inclusive;
Sec. 24, SW¼;
Sec. 24, SW¼;
Secs. 25 to 30, inclusive;
Sec. 31, N½, N½S½;
Sec. 32, N½NE¼, SW¼NE¼, NW¼, N½SW¼, NW¼SE¼;
Sec. 33, N½N½;
Sec. 34, N½, N½SW¼, SE¼;
Secs. 35, 36.
T. 24 N., R. 22 E.,
Sec. 31, S½N½, S½;
Sec. 32, S½N½, S½;
Sec. 33, S½NW¼, SW¼.
T. 23 N., R. 23 E.,
Sec. 28, SW¼NW¼, W½SW¼;
Sec. 29, S½N½, S½;
Sec. 30, S½N½, S½;
Secs. 31, 32;
Sec. 33, W½W½.

The public lands and/or minerals within the areas described aggregate approximately 94,023 acres in Chouteau, Fergus, Blaine, and Phillips Counties.

The purpose of the proposed withdrawal is to protect the public values within the Designated Upper Missouri Wild and Scenic River Management area. Portions of the Lewis and Clark and the Nez Perce National Historic Trails are also included in the management area.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management.

Notice is hereby given that a public meeting will be held in connection with the proposed withdrawal. All interested persons who desire a public meeting for the purpose of being heard on the proposed withdrawal must submit a written request to the undersigned officer within 90 days from the date of publication of this notice. A notice of the time and place of the public meeting will be published in the **Federal Register** at

lease 30 days before the scheduled date of the meeting.

The application will be processed in accordance with the regulations set forth in 43 CFR 2300.

For a period of 2 years from the date of publication of this notice in the **Federal Register**, the land will be segregated as specified above unless the application is denied or canceled or the withdrawal is approval prior to that date. The temporary uses which may be permitted during this segregative period are licenses, permits, cooperative agreements, or discretionary land use authorizations of a temporary nature, allowed only with the approval of an authorized officer of the Bureau of Land Management.

James Binando,

Acting Deputy State Director, Division of Lands and Renewable Resources.

April 12, 1989.

[FR Doc. 89-9360 Filed 4-18-89; 8:45 am]

BILLING CODE 4310-DN-M

[AA-620-09-4111-01-2410]

Washington; Withdrawing All Lands in the Lake Chelan and Ross Lake National Recreation Areas

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Section 402(b) of the Act of October 2, 1968 (82 Stat. 928; 16 U.S.C. 90c-1b) allowed the leasing of minerals in the Lake Chelan and Ross Lake National Recreation Areas. However, section 206 of the Act of November 16, 1988 (Pub. L. 100-668) amended the Act of October 2, 1968, by withdrawing the lands from disposition by leasing. The purpose of this Notice is to inform the public that this change will be reflected in the next proposed revision to 43 CFR 3100 and 3500.

EFFECTIVE DATE: November 16, 1988.

ADDRESS: Inquiries should be sent to: Director (620), Bureau of Land Management, Room 602, Premier Building, 18th and C Streets NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Richard Hopkins, (202) 653-2195.

SUPPLEMENTARY INFORMATION: The Bureau's oil and gas leasing regulations appearing at 43 CFR Subpart 3109 and solid mineral leasing regulations at 43 CFR Subpart 3582 indicate that, while leasing is allowed by law in Ross Lake and Lake Chelan National Recreation Areas (§§ 3109.2(C)(3) and 3582.2-1(c)), all of Lake Chelan and a large portion of Ross Lake National Recreation Areas had been administratively closed to mineral leasing (§§ 3109.2(d)(3) and 3582.2-2(c)). A small portion of Ross Lake remained open to mineral leasing.

However, as of November 16, 1988, all lands once leasable by law in Lake Chelan and Ross National Recreation Areas were withdrawn from mineral leasing by section 206 of the Act of November 16, 1988 (Pub. L. 100-668). Accordingly, the above regulations and the regulations at §§ 3100.0-3(g)(4), 3500.0-3(c)(3), and 3560.3-2, will be revised at a future date.

Date: April 10, 1989.

Robert F. Burford,

Director, Bureau of Land Management.

[FR Doc. 89-9358 Filed 4-18-89; 8:45 am]

BILLING CODE 4310-84-M

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before April 8, 1989. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, DC 20013-7127. Written comments should be submitted by May 4, 1989.

Carol D. Shull,

Chief Registration, National Register.

ARIZONA

Coconino County

Abandoned Route 66, Parks (1921) (Historic US Route 66 in Arizona MPS), W of Parks, Parks vicinity, 89000377

Abandoned Route 66, Parks (1931) (Historic US Route 66 in Arizona MPS), E of Parks, Parks vicinity, 89000378

Abandoned Route 66, Ash Fork Hill (Historic US Route 66 in Arizona MPS), N of I-40 between Ask Fork and Williams, Ash Fork vicinity, 89000380

Rural Route 66, Brannigan Park (Historic US Route 66 in Arizona MPS), Forest Rd. 146 E of Parks to Brannigan Park, Parks vicinity, 89000375

Rural Route 66, Parks (Historic US Route 66 in Arizona MPS), Forest Rd. 146 between Beacon Hill and Parks, Parks vicinity, 89000374

Rural Route 66, Pine Springs (Historic US Route 66 in Arizona MPS), Forest Rd. 108 at Pine Springs Ranch, Williams vicinity, 89000379

Urban Route 66, Williams (Historic US Route 66 in Arizona MPS), Bill Williams Ave. between Sixth St. and Pine St., Williams, 89000376

GEORGIA

Crawford County

Roberta Historic District, Roughly bounded by E. Cruselle St., Kirby St., Agency St., and Mather St., Roberta, 89000365

Greene County

Copeland Site (9GE18), Address Restricted, Greensboro vicinity, 89000373

ILLINOIS

Rock Island County

Potter House, 1906 7th Ave., Rock Island, 89000364

KENTUCKY

Trigg County

Cadiz Main Street Residential District, Main St., between Line St. and Scott St., Cadiz, 89000384

LOUISIANA

Calcasieu Parish

McMeese State University Auditorium, Ryan St. S of Sale St., Lake Charles, 89000381

Jackson Parish

Hickory Springs Methodist Episcopal Church, Off LA 499 near Bear Creek, Chatham vicinity, 89000382

MARYLAND

Baltimore Independent City

St. Micahel's Church Complex, 1900—1920 E. Lombardo St., Baltimore (Independent City), 89000383

MINNESOTA

Wabasha County

Campbell, William H. and Alma Downer, House (Red Brick Houses in Wabasha, Minnesota, Associated with Merchant-Tradesmen MPS), 211 W. Second St., Wabasha, 89000367

Ginthner, Lorenz and Lugerde, House (Red Brick Houses in Wabasha, Minnesota, Associated with Merchant-Tradesmen MPS), 130 W. Third St., Wabasha, 89000368

Kuehn, Lucas, House (Red Brick Houses in Wabasha, Minnesota, Associated with Merchant-Tradesmen MPS), 306 E. Main St., Wabasha, 89000369

Schmidt, Clara and Julius, House (Red Brick Houses in Wabasha, Minnesota, Associated with Merchant-Tradesmen MPS), 418 E. Second St., Wabasha, 8900370

Schwedes, Henry S. and Magdalena, House (Red Brick Houses in Wabasha, Minnesota, Associated with Merchant-Tradesmen MPS), 230 E. Main St., Wabasha 89000371

Thoris, Alexander, House (Red Brick Houses in Wabasha, Minnesota, Associated with Merchant-Tradesmen MPS), 329 W. Second St., Wabasha, 89000372

NEW MEXICO

Bernalillo County

Albuquerque Municipal Airport Building, 2920 Yale Blvd. SE., Albuquerque, 89000348

NORTH CAROLINA

Polk County

Hughes, J.G., House, N. Peak St., Columbus, 89000347

PENNSYLVANIA

Beaver County

Clow, James Beach, House, Chapel Dr. at Ann St., Ellwood City, 89000349

Blair County

Penn Alto Hotel, 12th St. and 13th Ave., Altoona, 89000350

Bucks County

Gilbert, Thomas and Lydia, Farm, 5042 Anderson Rd., Holicong, 89000351
Moland House, 1641 Old York Rd., Hartsville, 89000352
Taylor, Peter, Farmstead, 229 Wrights Rd., Newton, 89000353

Chester County

Strode's Mill Historic District, Jct. PA 52/100 and Birminghan Rd., West Chester vicinity, 89000354

Cumberland County

Gilbert Bridge, Bishop Rd./Gilbert Rd. over Yellow Breeches Creek, Grantham vicinity, 89000355
Union Hotel, 240 Old Gettysburg Rd., Shepherdstown, 89000362

Fayette County

Penn-Craft Historic District, Roughly bounded by PA 4020, Tup. Rd. 326, and Twp. Rd. 549, Penn-Craft, 89000356
Uniontown Downtown Historic District, Roughly Main St., between Court St. and Mill St., Uniontown, 89000357

Franklin County

Mercersburg Historic District (Boundary Increase), S. Main St., between Linden Ave. and PA 75, Mercersburg, 89000358

Lawrence County

McClelland Homestead, McClelland Rd., Bessemer vicinity, 89000359

Northumberland County

Cameron, Col. James, House, PA 405/River Rd., SE of Milton, Milton vicinity, 89000360

Philadelphia County

Wagner Free Institute of Science, 17th St. and Montgomery Ave., Philadelphia, 89000361

VIRGINIA

Montgomery County

Solitude, Greenhouse Rd. on Virginia Polytechnic Institute campus, Blacksburg, 89000363

Spotsylvania County

Stirling, Co. Rt. 607 at I-95, Massaponax vicinity, 89000366

[FR Doc. 89-9302 Filed 4-18-89; 8:45 am]

BILLING CODE 4310-70-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 89-2]

Richard Artis Beach, M.D. Gulf Breeze, FL; Hearing

Notice is hereby given that on December 19, 1988, the Drug Enforcement Administration, Department of Justice, issued to Richard Artis Beach, M.D. an Order to Show Cause as to why the Drug Enforcement Administration should not revoke your DEA Certificate of Registration, AB6511427, and deny any pending applications for registration.

Thirty days have elapsed since the said Order to Show Cause was received by Respondent, and written request for a hearing having been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in this matter will be held on Wednesday, June 21, 1989, commencing at 9:30 a.m., in the Judicial Building, 190 Governmental Center, Government Street, Courtroom 404, Pensacola, Florida.

Dated: April 12, 1989.

John C. Lawn,

Administrator, Drug Enforcement Administration.

[FR Doc. 89-9273 Filed 4-18-89; 8:45 am]

BILLING CODE 4410-09-M

[Docket No. 88-108]

Bill's Pharmacy, Paducah, KY; Hearing

Notice is hereby given that on October 11, 1988, the Drug Enforcement Administration, Department of Justice, issued to Bill's Pharmacy, an Order to Show Cause as to why the Drug Enforcement Administration should not revoke your DEA Certificate of Registration, AS3030486, and deny any pending applications for registration.

Thirty days have elapsed since the said Order to Show Cause was received by Respondent, and written request for a hearing having been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in this matter will be held on Tuesday, April, 25, 1989, commencing at 12:30 p.m., at the Jefferson County Court, house Fiscal Courtroom, Room 402, 527 West Jefferson Street, Louisville, Kentucky.

Dated: April 12, 1989.

John C. Lawn,

Administrator, Drug Enforcement Administration.

[FR Doc. 89-9274 Filed 4-18-89; 8:45 am]

BILLING CODE 4410-09-M

[Docket No. 88-116]

Robert E. Detrich, D.D.S., Harrisonburg, VA; Hearing

Notice is hereby given that on November 10, 1988, the Drug Enforcement Administration, Department of Justice, issued to Robert E. Detrich, D.D.S., an Order to Show Cause as to why the Drug Enforcement Administration should not revoke your DEA Certificate of Registration, AD7409534, and deny any pending applications for registration.

Thirty days have elapsed since the said Order to Show Cause was received by Respondent, and written request for a hearing having been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in this matter will be held on Wednesday, May 10, 1989, commencing at 10:00 a.m., at the United States Court of Appeals for the Federal Circuit, Courtroom two, fourth floor, 717 Madison Place NW., Washington, DC.

Dated: April 12, 1989.

John C. Lawn,

Administrator, Drug Enforcement Administration.

[FR Doc. 89-9275 Filed 4-18-89; 8:45 am]

BILLING CODE 4410-09-M

[Docket No. 89-8]

Nick M. Higgins, D.D.S., San Antonio, TX; Hearing

Notice is hereby given that on January 12, 1989, the Drug Enforcement Administration, Department of Justice, issued to Nick M. Higgins, D.D.S., an Order to Show Cause as to why the Drug Enforcement Administration should not deny your application for a DEA Certificate of Registration.

Thirty days have elapsed since the said Order to Show Cause was received by Respondent, and written request for a hearing having been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in this matter will be held on Thursday, June 8, 1989, commencing at 9:30 a.m., at the United States Tax Court, United States Courthouse, Courtroom 371, 615 East Houston Street, San Antonio, Texas.

Dated: April 12, 1989.

John C. Lawn,

Administrator, Drug Enforcement Administration.

[FR Doc. 89-9276 Filed 4-18-89; 8:45 am]

BILLING CODE 4410-09-M

[Docket No. 89-105]

Charles V. Sperrazza, M.D., Buffalo, NY; Hearing

Notice is hereby given that on October 24, 1988, the Drug Enforcement Administration, Department of Justice, issued to Charles V. Sperrazza, M.D., an Order to Show Cause as to why the Drug Enforcement Administration should not revoke your DEA Certificate of Registration, AS2086076, and deny and pending applications for registration.

Thirty days have elapsed since the said Order to Show Cause was received by Respondent, and written request for a hearing having been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in this matter will be held on Thursday, May, 18, 1989, commencing at 10:00 a.m., at the United States Court of Appeals for the Federal Circuit, Courtroom one, second floor, 717 Madison Place, NW., Washington, DC.

Dated: April 12, 1989.

John C. Lawn,

Administrator, Drug Enforcement Administration.

[FR Doc. 89-9277 Filed 4-18-89; 8:45 am]

BILLING CODE 4410-09-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (89-27)]

Intent to Grant an Exclusive Patent License; Macrodyne Inc.

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of intent to grant a patent license.

SUMMARY: NASA hereby gives notice of intent to grant Macrodyne Inc., of Schnectady, New York, a limited exclusive, royalty-bearing, revocable license to practice the invention as described in U.S. Patent No. 4,786, 168 for "Frequency Domain Laser Velocimeter Signal Processor," which issued November 22, 1988, to the Administrator of the National Aeronautics and Space Administration on behalf of the United States of America. The proposed exclusive license will be for a limited number of years and will contain appropriate terms, limitations and conditions to be negotiated in accordance with NASA Patent Licensing Regulations, 14 CFR Part 1245, Subpart 2. NASA will negotiate the final terms and conditions and grant the exclusive license, unless within 60 days of the Date of this Notice, the Director of Patent Licensing will review the written objections to the grant, together with supporting documentations. The Director of Patent Licensing will review all written responses to the Notice and then recommend to the Associate General Counsel (Intellectual Property) whether to grant exclusive license.

DATE: Comments to this notice must be received on or before June 19, 1989.

ADDRESS: National Aeronautics and Space Administration, Code GP, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. Harry Lupuloff, (202) 453-2430.

Date: April 12, 1989.

Edward A. Frankle,

General Counsel.

[FR Doc. 89-9413 Filed 4-18-89; 8:45 am]

BILLING CODE 4310-64-M

NUCLEAR REGULATORY COMMISSION

Biweekly Notice Applications and Amendments to Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law (P.L.) 97-415, the Nuclear Regulatory Commission (the Commission) is publishing this regular biweekly notice. P.L. 97-415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from March 25, 1989 through April 7, 1989. The last biweekly notice was published on April 5, 1989 (54 FR 13756).

NOTICE OF CONSIDERATION OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE AND PROPOSED NO SIGNIFICANT HAZARDS CONSIDERATION DETERMINATION AND OPPORTUNITY FOR HEARING

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration and Resources Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room P-216, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland from 7:30 a.m. to 4:15 p.m. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By May 19, 1989 the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 325-6000 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to (*Project Director*): petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room for the particular facility involved.

Arkansas Power & Light Company, Docket No. 50-368, Arkansas Nuclear One, Unit 2 (ANO-2), Pope County, Arkansas

Date of amendment request: December 12, 1986

Description of amendment request: This amendment would change the ANO-2 Technical Specifications (TS) which describe the design features of the Spent Fuel Storage Pool. These changes will update the TS to conform with Amendment 43 (April 15, 1983) which increased the spent fuel storage capacity for ANO-2. This amendment also would make a number of editorial, clarifying and administrative corrections to the Technical Specifications. Remaining issues in the amendment request have been addressed in previous notices.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards for determining whether a significant hazards consideration exists by providing certain examples (51 FR 7751). One of the examples (i) of actions not likely to involve a significant hazards relates to a purely administrative change to technical specifications; for example, a change to achieve consistency throughout technical specifications, correction of an error, or a change in nomenclature.

This amendment would correct an administrative error in omission of spent fuel pool design feature information in the ANO-2 Technical Specifications. The new information should have been included in the February 17, 1983 request for TS change to reflect expansion of the spent fuel pool capacity for the plant. That requested change was approved in Amendment 43 which expanded storage from 485 spaces to 988 spaces. In addition the requested set of editorial changes are administrative in nature. The current changes would correct these administrative oversights, and therefore appear to be similar to example (i).

Since the application for amendment involves proposed changes that are similar to an example of an action that is considered not to involve significant hazards considerations, the Commission has made a proposed determination that

the application for amendment involves no significant hazards considerations.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801

Attorney for licensee: Nicholas S. Reynolds, Esq., Bishop, Cook, Purcell & Reynolds, 1400 L Street, NW., Washington, DC 20005-3502

NRC Project Director: Jose A. Calvo

Carolina Power & Light Company et al., Docket No. 50-325 and 50-324, Brunswick Steam Electric Plant, Units No. 1 and 2, Brunswick County, North Carolina

Date of application for amendment: September 4, 1987, as supplemented April 5, 1988, superseded February 20, 1989, and supplemented March 20, 1989.

Description of amendment request: Based on the guidance provided in NRC Generic Letter 88-16, the proposed change removes the values of cycle-specific parameter limits from the Brunswick Steam Electric Plant (BSEP) Technical Specifications (TS) and includes them in the Core Operating Limits Report (COLR). However, the COLR will be referenced in the TS, and will be periodically submitted to the Commission.

In addition, and based on the guidance in the NRC Safety Evaluation Report (SER) for Amendment 19 to General Electric Licensing Topical Report NEDE-24011-P-A, the proposed change eliminates BSEP Technical Specification 3/4.2.4, Linear Heat Generation Rate (LHGR), and the associated Total Peaking Factor (TPF). The use of TPF in the formulation of the Average Power Range Monitor (APRM) flow-biased scram and rod block setpoint setdown requirements of Specification 3/4.2.2 is being revised, along with associated definitions that are added, deleted, or revised. The associated revision of Technical Specification 3/4.2.1 specifies that only the most limiting lattice Average Planar Linear Heat Generation Rate (APLHGR) limit for multiple lattice fuel types will be specified.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a no significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The Carolina Power & Light Company (CP&L) has reviewed the proposed changes to TS and has determined that the requested amendment does not involve a significant hazards consideration as follows:

Removal of Cycle-Specific Parameter Limits:

1. The proposed amendment does not involve a significant increase in probability or consequences of an accident previously evaluated. The abnormal operational transients analyzed in the BSEP Updated Final Safety Analysis Report will remain bounded. There will be no change in the operation of the facility as a result of the amendment. No safety-related equipment or function will be altered. The proposed amendment merely removes cycle-specific parameter limits from the Technical Specifications and references their inclusion in the CORE OPERATING LIMITS REPORT. NRC approved analytical methodology will continue to be used as the basis for the results that will now be reported in the CORE OPERATING LIMITS REPORT.

2. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated. As stated above, no safety-related equipment, safety function, or plant operations will be altered as a result of this amendment. The requested change does not create any new accident mode. The proposed amendment is in accordance with the guidance provided in Generic Letter 88-16 for licensees requesting removal of the values of cycle-specific parameters from Technical Specifications. The establishment of these limits in accordance with an NRC-approved methodology and the incorporation of these limits into the CORE OPERATING LIMITS REPORT will ensure that proper steps have been taken to establish the values of these limits. Furthermore, the submittal of the CORE OPERATING LIMITS REPORT to the Commission will allow the Staff to continue to trend the values of these limits without the need for prior Staff approval of these limits and without introduction of an unreviewed safety question.

3. The proposed amendment does not alter the requirement that the plant be operated within the limits for cycle-specific parameters nor the required remedial actions that must be taken if these limits are not met. While it is recognized that such limits are essential to plant safety, the values of such limits can be determined in accordance with NRC-approved methods without affecting nuclear safety. The removal of the values of these limits from the BSEP Technical Specifications is coincident with their incorporation into the CORE OPERATING LIMITS REPORT that is submitted to the Commission. Hence, appropriate measures exist to control the values of these limits. Therefore, the proposed changes are administrative in nature and do not impact the operation of the facility in a manner that involves a reduction in the margin of safety. Indeed, as stated in Generic Letter 88-16, the proposed amendment is responsive to industry and NRC efforts on improvements in Technical Specifications, and will result in a resource savings for the licensee and the NRC by eliminating the majority of license amendment requests for changes in values of cycle-specific parameters in Technical Specifications. Indirectly, this is a safety improvement because the released resources may now be utilized on more consequential tasks.

Deletion of LHGR:

1. The proposed amendment does not involve a significant increase in the consequences of any accident previously evaluated. The NRC Safety Evaluation Report for Amendment 19 to GESTAR-II concluded that a change similar to the proposed change "...will, in practice, result in the same operating power distribution limits and safety margins as the current Technical Specifications." The essential redundancy of the Linear Heat Generation Rate and the Average Planar Linear Heat Generation Rate, and the equivalence of the formulation of the APRM flow-biased setpoint setdown requirement, has been established and is documented in the NRC Safety Evaluation Report for Amendment 19 of GESTAR-II. Since the same operating power distribution limits as current Technical Specifications will, in practice, be required, the proposed change does not involve a significant increase in the consequences of any accident previously evaluated.

The proposed change eliminates a thermal performance limit, modifies several definitions and provides an equivalent basis for adjusting APRM flow-biased setpoint setdown based on power distribution parameters. As such the change only affects power distribution parameters which do not influence the probability of any accident. Therefore, the proposed change does not result in a significant increase in the probability of any accident previously evaluated.

2. The proposed change does not alter the function of any component or system and, therefore, does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The margin of safety, as established by current Technical Specification power distribution limits, are [SIC] based on the assumptions and analyses documented in the BSEP Updated Final Safety Analysis Report. The proposed amendment will, in practice, result in the same power distribution limits as contained in current Technical Specifications; therefore, the proposed change does not involve a significant reduction in the margin of safety.

The staff has reviewed the CP&L determinations and is in basic agreement with them. Cycle-specific parameter limits will be referenced in the TS, but will be located in a licensee controlled document instead of located in the TS. The linear heat generation rate limit is essentially redundant to the average planar linear heat generation

rate limit and the latter limit will be retained.

Local Public Document Room location: University of North Carolina at Wilmington, William Madison Randall Library, 601 S. College Road, Wilmington, North Carolina 28403-3297.

Attorney for licensee: R. E. Jones, General Counsel, Carolina Power & Light Company, P. O. Box 1551, Raleigh, North Carolina 27602.

NRC Project Director: Elinor G. Adensam

Carolina Power & Light Company, Docket No. 50-400, Shearon Harris Nuclear Power Plant, Unit 1, Wake and Chatham Counties, North Carolina

Date of amendment request: February 22, 1989

Description of amendment request: The proposed amendment would change Technical Specification (TS) 3/4.1.1.3, "Moderator Temperature Coefficient," to allow a more negative moderator temperature coefficient (MTC) in the Limiting Condition for Operation, TS 3.1.1.3b, and in the associated Surveillance Requirement, TS 4.1.1.3b.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards in 10 CFR 50.92(c) for determining whether a significant hazards consideration exists. A proposed amendment to an Operating License for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability of consequences of an accident previously evaluated, or (2) create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in a margin of safety.

As required by 10 CFR 50.91(a), the licensee has provided the following no significant hazards consideration determination:

1. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously analyzed. Accident analyses do not explicitly input an MTC, but rather a constant moderator density coefficient (MDC). Converting the MDC used in the accident analyses to an MTC is a straight forward calculation which accounts for the rate of change of moderator density with temperature at the conditions of interest; namely, Hot Full Power (HFP). For those non-LOCA transients where analysis results are made more severe by assuming maximum moderator feedback, a constant MDC of 0.43 delta K/gm/cc has been assumed to exist throughout the transient. Converting this to a limiting MTC at HFP conditions gives about -56 pcm/° F. The proposed Technical Specification LCO MTC value of -49 pcm/° F conservatively assures that under other allowed operating conditions (such as rods at insertion limits, off-nominal temperature and pressure and xenon and axial offset variations) that the actual MTC will not exceed the analysis value. Hence, there is no effect on any design basis accident and no increases in the consequences of any design basis accident associated with this Technical Specification change.

For LOCA analyses (large and small break), the only significance of a change in MTC would be to the extent that it may affect generated decay heat. The reactivity assumptions in the large break and small break LOCA accident analyses assume a maximum decay heat generation according to the requirements of Appendix K. Consequently, any changes to the MTC would show no effect for the large and small break LOCA analyses.

As stated above, the safety analysis assumption remains conservative with respect to the proposed LCO limit value of -49 pcm/° F. Therefore, the proposed change in the LCO limit from -42 pcm/° F to -49 pcm/° F still assures that the accident analyses moderator temperature coefficient is not exceeded. The proposed changes do not impact the consequences of any design basis accident. Also, there are no failure modes associated with the proposed changes; therefore, there is no increase in the probability or consequences of any accident previously evaluated.

2. The proposed amendment does not create the possibility of a new or different kind of accident. There is no change in the plant design or in operating procedures. Additionally, there are no new failure modes introduced by the proposed changes; therefore, there can be no impact on plant response to the point where a different accident is created.

3. The proposed amendment does not involve a significant reduction in a margin of safety. The proposed changes have no impact on the consequences of an accident or on any of the protective boundaries. The bases to the MTC Technical Specification 3/4.1.1.3 states "The limitations on moderator temperature coefficient (MTC) are provided to ensure that the value of this coefficient remains within the limiting condition assumed in the FSAR accident and transient analyses." The proposed changes continue to satisfy this statement. The definition of the most limiting condition assumed in the safety analyses is changing from an extremely conservative and unrealistic assumption of Hot Full Power (HFP), all rods in (ARI), to a Most Negative Feasible MTC approach. The Most Negative Feasible MTC still provides a conservative estimate of the worst MTC, and the revised limits still provide assurance that the values used in the safety analyses remain bounding compared to those which may be experienced under real accident conditions. Based on the above discussion, there is no significant reduction in the margin of safety.

Based on the above, the licensee has concluded that the proposed amendment meets the three standards in 10 CFR 50.92 and, therefore, involves no significant hazards consideration.

The NRC staff has made a preliminary review of the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Accordingly, the Commission proposes to determine that the requested amendment does not involve a significant hazards consideration.

Local Public Document Room location: Cameron Village Regional Library 1930 Clark Avenue, Raleigh, North Carolina 27605.

Attorney for licensee: R. E. Jones, General Counsel, Carolina Power & Light Company, P. O. Box 1551, Raleigh, North Carolina 27602

NRC Project Director: Elinor G. Adensam

Carolina Power & Light Company, Docket No. 50-400, Shearon Harris Nuclear Power Plant, Unit 1, Wake and Chatham Counties, North Carolina

Date of amendment request: February 22, 1989

Description of amendment request: The proposed amendment would revise Surveillance Requirement 4.9.8.2 to delete the residual heat removal (RHR) flow requirement whenever the water level is below the reactor vessel flange. Currently, Surveillance Requirement 4.9.8.2 requires that at least one RHR loop be verified in operation and circulating reactor coolant at a flow rate of greater than or equal to 2500 gpm at least once per 12 hours when the reactor is in Mode 6 with irradiated fuel in the vessel and the water level above the top of the reactor vessel flange is less than 23 feet. The 2500 gpm flow requirement would be maintained when the water level is at or above the reactor vessel flange. The associated Bases section would also be revised to reflect this change.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards in 10 CFR 50.92(c) for determining whether a significant hazards consideration exists. A proposed amendment to an Operating License for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability of consequences of an accident previously evaluated, or (2) create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in a margin of safety.

As required by 10 CFR 50.91(a), the licensee has provided the following no

significant hazards consideration determination:

1. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The existing requirement of Specification 3/4.9.8.2 that at least one RHR loop be in operation ensures that: (1) sufficient cooling capacity is available to remove decay heat and maintain the water in the reactor vessel below 140° F as required in Mode 6, and (2) sufficient coolant circulation is maintained through the core to minimize the effect of a boron dilution incident and prevent boron stratification. The Mode 6 minimum flow limit of 2500 gpm was established to alleviate the potential for boron stratification under refueling conditions. However, achieving 2500 gpm flow rate at the reduced water levels of mid-loop operation could cause cavitation and eventual damage of the RHR pumps. Boron stratification is only a concern with the large volumes of water present when the refueling cavity is filled. Sufficient mixing exists, even at low RHR flow rates, to preclude boron stratification when the water level is below the reactor vessel flange. Administrative controls to isolate potential sources of non-borated water from the reactor, established in Technical Specification 3/4.9.1, prevent a boron dilution event while in Mode 6. Since boron stratification is not a concern at reduced RCS water inventories and the possibility for a boron dilution event is precluded by Technical Specification 3/4.9.1, the proposed revision to eliminate the minimum flow limit when the RCS water level is below the reactor vessel flange does not significantly increase the probability or consequences of an accident previously evaluated.

2. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated. The proposed amendment splits the existing surveillance requirement into two separate surveillances. The first, Surveillance Requirement 4.9.8.2.1, is applicable when the RCS water level is at or above the reactor vessel flange and maintains the 2500 gpm minimum flow limit. The second, Surveillance Requirement 4.9.8.2.2, is applicable when the RCS water level is below the reactor vessel flange and requires that one RHR loop be verified in operation and circulating reactor coolant at least once per 12 hours. This new surveillance requirement is identical to the existing Mode 5 Surveillance Requirement 4.4.1.4.2, the only difference being the plant mode. That is, prior to de-tensioning the reactor vessel head closure bolts with water temperature less than 140° F the plant is in Mode 5. Upon detensioning of the bolts, the plant is in Mode 6. There is no change in reactor vessel water level, however, at this point the existing Surveillance Requirement 4.9.8.2 establishes a minimum flow rate of 2500 gpm. This minimum flow requirement is not necessary when the water level is below the reactor vessel flange as demonstrated in the Bases for Specification 3/4.4.1, Reactor Coolant Loops and Coolant Circulation, which states that, in Mode 5, ". . . the operation of one reactor coolant pump or one RHR pump provides adequate flow to ensure mixing and prevent stratification." No Mode 5 minimum flow rate is established in Specification 3/4.4.1. Therefore, as long as the RCS water level is below the reactor vessel flange a minimum flow requirement is not necessary either in Mode 5 or Mode 6. Upon raising the water level above the reactor vessel flange, the proposed Surveillance Requirement 4.9.8.2.1 will be in effect and require a minimum flow rate of 2500 gpm. As such, the proposed amendment will not result in the plant being placed in a condition not currently allowed during Mode 5 operation and, therefore, does not create the possibility of a new or different kind of accident.

3. Eliminating the minimum RHR flow limit of 2500 gpm when the RCS water level is below the reactor vessel flange does not involve a significant reduction in the margin of safety. As stated above, the Mode 6 minimum flow limit of 2500 gpm was established to alleviate the potential for boron stratification under refueling conditions. Boron stratification is only a concern with the large volumes of water present when the refueling cavity is filled. Sufficient mixing exists, even at low RHR flow rates, to preclude boron stratification when the water level is below the reactor vessel flange. In addition, the proposed amendment does not result in the plant being placed in a condition not currently allowed by the existing Mode 5 Surveillance Requirement 4.4.1.4.2. Therefore, the proposed amendment does not result in a significant reduction in the margin of safety.

Based on the above, the licensee has concluded that the proposed amendment meets the three standards in 10 CFR 50.92 and, therefore, involves no significant hazards consideration.

The NRC staff has made a preliminary review of the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Accordingly, the Commission proposes to determine that the requested amendment does not involve a significant hazards consideration.

Local Public Document Room location: Cameron Village Regional Library, 1930 Clark Avenue, Raleigh, North Carolina 27605.

Attorney for licensee: R. E. Jones, General Counsel, Carolina Power & Light Company, P. O. Box 1551, Raleigh, North Carolina 27602

NRC Project Director: Elinor G. Adensam

Commonwealth Edison Company, Docket Nos. 50-454 and 50-455, Byron Nuclear Station, Unit Nos. 1 and 2, Ogle County, Illinois; and Docket Nos. 50-456 and 50-457, Braidwood Station, Unit Nos. 1 and 2, Will County, Illinois

Date of application for amendments: December 23, 1987, supplemented April 3, 1989.

Description of amendments request: The proposed amendment would revise Technical Specification Tables 3.3-1 and 4.3-1, as requested in Generic Letter 85-09 for Reactor Trip System Automatic Actuation using shunt trip coil attachments.

Basis for proposed no significant hazards consideration determination: The staff has evaluated this proposed amendment and determined that it involves no significant hazards considerations. According to 10 CFR 50.92(c), a proposed amendment to an operating license involves no significant hazards considerations if operation of the facility in accordance with the proposed amendment would not:

1. Involves a significant increase in probability or consequences of an accident previously evaluated; or

2. Create the possibility of a new or different kind of accident from any accident previously evaluated; or

3. Involve a significant reduction in a margin of safety.

The proposed changes requested have been evaluated as presented below:

(1) The automatic actuation of the shut trip coil attachment provides an alternate method to open the reactor trip coil breakers. When a reactor trip signal is generated, there are diverse mechanisms to provide a reactor breaker trip which would minimize the possibility of an Anticipated Transient Without Scram (ATWS) occurring. The proposed changes revise the surveillances to require independent testing of the undervoltage and shunt trip coil attachment for the manual reactor trip and the reactor trip breakers.

These surveillances provide assurance of reactor trip breaker operability when required. Since there are now two diverse trip mechanisms, a change is also proposed to allow forty-eight (48) hours to restore one of the trip features when it becomes inoperable, before a reactor shutdown is required. This is conservative because it recognizes that there are two trip mechanisms instead of one and allows forty-eight (48) hours to restore the inoperable trip feature. This change is based on the allowable time referenced in the NRC Generic Letter 85-09. Removal of note 14, for the Braidwood Technical Specifications is administrative in nature.

(2) The proposed changes do not change the manner in which the reactor protection system provides plant protection. The addition of surveillance test requirements provides assurance that the Reactor functions will occur when required. Present plant equipment is not being altered to accommodate

these changes, hence, no new failure mechanisms are introduced.

(3) The proposed changes are expected to increase the overall margin of safety because they provide periodic test requirements for the Reactor Trip Breakers. These proposed surveillance changes are designed to provide assurance of operability of the reactor trip and bypass breakers. Based on the preceding assessment, the staff believes these proposed amendments involve no significant hazards consideration.

Local Public Document Room location: For Byron Station, the Rockford Public Library, 215 N. Wyman Street, Rockford, Illinois 61101; for Braidwood Station, the Wilmington Township Public Library, 201 S. Kankakee Street, Wilmington, Illinois 60481.

Attorney to licensee: Michael Miller, Esquire; Sidley and Austin, National Plaza, Chicago, Illinois 60603.

NRC Project Director: Daniel R. Muller

Commonwealth Edison Company, Docket Nos. 50-373 and 50-374, LaSalle County Station, Unit Nos. 1 and 2, LaSalle County, Illinois

Date of application for amendments: January 30, 1989

Description of amendments request: The proposed amendments to Operating License No. NPF-11 and Operating License No. NPF-18 would revise the LaSalle Units 1 and 2 Technical Specifications by revising the MAPLHGR Limits Curves to reflect the higher nodal exposure values for specific fuel types.

The MAPLHGR limit curves of Technical Specification 3.2.1 for both Units 1 and 2 are being redrawn to reflect higher nodal exposure values for fuel types 8CRB176, 8CRB219, and BP8CRB299L. The purpose of the revision is that the full analyzed range of nodal exposures was not previously reflected and operation during Cycle 3 of each unit is expected to go beyond the limits of the existing curves.

The MAPLHGR limits of Technical Specification Figures 3.2.1-1 and 3.2.1-2 depict the maximum allowable Average Planar Linear Heat Generation Rate for the specific fuel types as a function of nodal exposure. The exposure dependent limits are analyzed by GE and approved by the NRC through reviews of General Electric Standard Application for Reloads (GESTAR). The site Technical Specifications then provide a controlling document to reflect these analyzed limits.

During the Cycle 2 reload licensing submittals for both LaSalle units (Amendment 40 for Unit 1 - NPF-11, Amendment 32 for Unit 2 - NPF-18), the MAPLHGR limit curves for fuel type 8CRB299L were drawn to the same exposures (30,000 MWD/STU) as the initial cycle fuel curves for simplification. The GE analyzed exposure range of up to 44,500 MWD/STU (49.0 GWD/MTU) was reviewed and approved in those submittals (GE "Supplemental Reload Licensing Submittal" documents 23A1843 and 23A4735 for Units 1 and 2, respectively). Redrawing of these curves is an administrative change only, and will adequately reflect the analyzed exposure range of the 8CRB299L bundles throughout their useable bundle lifetime.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether no significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from an accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has determined, and the NRC staff agrees, that the proposed amendment will not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated because these restrictions on power distribution are based on analysis performed with the NRC approved methods and are provided to ensure that these consequences of accidents remain within the existing criteria for LaSalle.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated because the proposed revisions place restrictions on power distribution thus eliminating new or different kinds of accidents from those previously analyzed.

3. Involve a significant reduction in the margin of safety because the specification revisions provide limitations on the power distribution intended to ensure that the ECCS and fuel thermal mechanical criteria continue to be protected.

Local Public Document Room location: Public Library of Illinois Valley Community College, Rural Route No. 1, Ogelsby, Illinois 61348.

Attorney to licensee: Michael I. Miller, Esquire; Sidley and Austin, One First National Plaza, Chicago, Illinois 60603.

NRC Project Director: Daniel R. Muller

Connecticut Yankee Atomic Power Company, Docket No. 50-213, Haddam Neck Plant, Middlesex County, Connecticut; Northeast Nuclear Energy Company et al; Docket Nos. 50-245, 50-336, and 50-423, Millstone Nuclear Power Station Unit Nos. 1, 2, and 3, New London County, Connecticut

Date of amendment request: March 13, 1989

Description of amendment request: By an application dated March 13, 1989, Connecticut Yankee Atomic Power Company (CYAPCO) and Northeast Nuclear Energy Company (NNECO) proposed to amend the Technical Specifications (TS) of the Haddam Neck and Millstone Units 1, 2 and 3 plants. The amendment would delete Figure 6.2-1, "Offsite Organization," and Figure 6.2-2, "Unit Organization," from the Technical Specifications and would revise TS section 6 to require the inclusion of these organizational charts in the Quality Assurance Topical Report.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards in 10 CFR 50.92(c) for determining whether a significant hazards consideration exists. A proposed amendment to an Operating License for a facility involves a no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability of consequences of an accident previously evaluated, (2) create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in a margin of safety. CYAPCO/NNECO has reviewed the proposed change and provided the following analysis. The change would not:

1. Involve a significant increase in the probability of occurrence or consequences of an accident previously analyzed. The proposed changes are strictly administrative in nature. This administrative change will not increase the probability of occurrence or the consequences of an accident previously analyzed.

2. Create the possibility of a new or different kind of accident from any previously analyzed. Since there are no changes in the way the plant is operated, the potential for an unanalyzed accident is not created. No new failure modes are introduced. The proposed changes are administrative and have no affect on plant operation.

3. Involve a significant reduction in a margin of safety. The proposed changes

remove the offsite and onsite organization charts from the Technical Specifications and are strictly administrative. Similar organization charts are contained in the QA Topical Report, which is updated annually. Since the proposed changes do not affect the consequences of any accident previously analyzed, there is no reduction in the margin of safety.

The Commission staff has reviewed and agrees with the CYAPCO/NNECO analysis and believes that the licensees have met the three criteria for a no significant hazards consideration. Accordingly, the Commission proposes to determine that this change does not involve a significant hazards consideration.

Local Public Document Room location: Russell Library, 123 Broad Street, Middletown, Connecticut 06457 and Waterford Public Library, 49 Rope Ferry Road, Waterford, Connecticut 06385.

Attorney for licensee: Gerald Garfield, Esquire, Day, Berry & Howard, Counselors at Law, City Place, Hartford, Connecticut 06103-3499.

NRC Project Director: John F. Stolz

Consumers Power Company, Docket No. 50-255, Palisades Plant, Van Buren County, Michigan

Date of amendment request: November 21, 1985

Description of amendment request: The proposed amendment would revise the provisions in the Palisades Plant, Technical Specifications (TSs) with the addition of new sections relating to the Alternate Shutdown System.

Specifically, the proposed amendment would add Section 3.25, Alternate Shutdown System, which would require the operability of the Alternate Shutdown System whenever the reactor coolant temperature reaches or exceeds 325° F. This section specifically identifies the minimum equipment to be operable, their locations, and action to be taken in the event of inoperability of any specified equipment.

The proposed amendment would also add Section 4.20 which would require performance of periodic surveillance testing of certain Alternate Shutdown System equipment. This section specifically identifies the Alternate Shutdown System components subject to the surveillance requirements.

The amendment request also proposed other changes not described above. Those proposed changes will be discussed in a separate notice in the **Federal Register** when the Commission considers issuance of those changes.

Basis for proposed no significant hazards consideration determination: The Commission has made a proposed determination that the amendment involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.59, this means the operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The Commission has evaluated the proposed changes against the above criteria as follows:

A. The changes do not involve a significant increase in the probability or consequences or an accident previously evaluated because the Alternate Shutdown System design provides a means to control auxiliary feedwater in the event of a fire in the control room which results in loss of control from the main control room of the turbine-driven auxiliary feedwater pump. A third auxiliary feedwater pump provides a separate injection path to the steam generators in the event of a fire at the Alternate Hot Shutdown panel which results in loss of control of the normal auxiliary feedwater pumps. Therefore, since a postulated fire cannot disable the auxiliary feedwater function, the change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

B. For the same reasons as cited in paragraph A above, the change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

C. The change does not involve a significant reduction in a margin of safety because the Alternate Shutdown System provides assurances of the auxiliary feedwater function in the event of a fire that disables normal control of this function. Therefore, the margins of safety associated with operation of the plant are unchanged

Local Public Document Room location: Van Zoeren Library, Hope College, Holland, Michigan 49423.

Attorney for licensee: Judd L. Bacon, Esq., Consumers Power Company, 212 West Michigan Avenue, Jackson, Michigan 49201.

NRC Project Director: Theodore R. Quay, Acting.

Consumers Power Company, Docket No. 50-255, Palisades Plant, Van Buren County, Michigan

Date of amendment request: March 10, 1987

Description of amendment request: The proposed amendment would change the Technical Specifications to provide clarifications and editorial corrections to the Radiological Effluent Technical Specifications (RETS).

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR Part 50.92(c). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase it the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has evaluated the proposed changes against the above standards as required by 10 CFR 50.91(a). The Commission's staff has reviewed the licensee's evaluation and agrees with it.

The licensee has concluded that:

(1) The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated. The changes are administrative in nature in that they: (a) clarify the existing requirements for sampling service water discharge (or effluents); (b) remove the surveillance requirements for the quarterly testing of the Hi Range Noble Gas Monitor high alarm annunciator which does not exist in the plant; and (c) corrects an editorial error in Technical Specification (TS) Amendment 85. None of these changes impact on plant design or operation and consequently the previously evaluated accidents are not altered.

(2) The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated since, as stated in (1) above, the changes are administrative and essentially clarify service water sampling requirements and/or correct existing TS errors.

(3) The proposed changes do not involve a significant reduction in a margin of safety since, as stated in (1) and (2) above, the changes are administrative and do not involve a change in the manner in which the plant is operated.

In addition, the proposed license amendment fits example (i) of the types of amendments that are considered not likely to involve significant hazards consideration published in the **Federal Register** on March 6, 1986 (51 FR 7751), in that it is considered to be a purely administrative changes to the TS; i.e., a change to achieve consistency throughout the TS, correct an error, or a change in nonmenclature.

Based on the above review, the staff proposes to determine that the licensee's

request does not involve a significant hazards consideration.

Local Public Document Room location: Van Zoeren Library, Hope College, Holland, Michigan 49423.

Attorney for licensee: Judd L. Bacon, Esq., Consumers Power Company, 212 West Michigan Avenue, Jackson, Michigan 49201.

NRC Project Director: Theodore R. Quay, Acting.

Detroit Edison Company, Docket No. 50-341, Fermi-2, Monroe County, Michigan

Date of amendment request: October 7, 1988

Description of amendment request: The proposed change deletes the requirement to perform response time testing of the High Drywell Pressure actuation of the High Pressure Coolant Injection (HPCI) System. The change will eliminate unnecessary operation of the HPCI system and thus enhance overall HPCI system reliability.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists [10 CFR 50.92(c)] for a proposed amendment to a facility operating license. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

The licensee has evaluated the proposed change against the above standards as required by 10 CFR 50.92. The licensee concluded that:

(1) The change does not involve a significant increase in the probability or consequences of an accident previously evaluated. The Fermi-2 ECCS analysis takes no credit for the High Drywell Pressure actuation of the HPCI system and the High Drywell Pressure signal has been found to precede the Low Reactor Water Level signal for all break sizes. Thus, the time response capability of the HPCI system can be conservatively verified by testing the system time response to only the Low Reactor Water Level actuation signal. The change reduces the number of HPCI system starts required for surveillance testing and thus increases the overall reliability of the HPCI system. This increased reliability acts to decrease the probability or consequences of previously evaluated accidents.

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated. The change does not modify plant design or operation and therefore creates no new accident modes. The reduced response time testing does not create the possibility of a new or different kind of accident since the remaining functional test requirements ensure that any credible failure of the circuitry no longer response time tested is detected in a timely manner

(3) Involve a significant reduction in a margin of safety. As discussed in (1) above, the change acts to increase overall reliability of the HPCI system. As such, the change acts to increase the margin of safety. The margin of safety is maintained since the HPCI system is still conservatively response time tested and the circuitry which is no longer response time tested does not represent a credible mechanism for degradation of the HPCI system response time.

The staff has reviewed the licensee's evaluation and concurs with it. On the basis of the above consideration, the staff proposes to find that the changes do not involve a significant hazards consideration.

Local Public Document Room location: Monroe County Library System, 3700 South Custer Road, Monroe, Michigan 48161.

Attorney for licensee: John Flynn, Esq., Detroit Edison Company, 2000 Second Avenue, Detroit, Michigan 48226.

NRC Project Director: Theodore R. Quay, Acting.

Detroit Edison Company, Docket No. 50-341, Fermi-2, Monroe County, Michigan

Date of amendments request: November 14, 1988

Description of amendments request: The proposed amendment would delete the mass flow rate values associated with Steam Line Flow - High Trip Function of both the Reactor Core Isolation Cooling (RCIC) system isolation and High Pressure Coolant Injection (HPCI) system isolation as listed in Table 3.3.2-1 items 3.a.1 and 4.a.1, respectively. The change also finalizes the Trip Set Point and Allowable Values for these trip functions

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists [10 CFR 50.92(c)] for a proposed amendment to a facility operating license. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has evaluated the proposed change against the above standards as required by 10 CFR 50.92. The licensee concluded that:

(1) The proposed change to delete the mass flow rate and associated ** from Items 3.a.1 and 4.a.1 of Table 3.3.2-2 does not involve a significant increase in the probability or consequences of an accident previously evaluated. The mass flow rate value is not produced by the installed instrumentation and it is not necessary nor required for the Trip Setpoint to perform the function of isolation of the RCIC or HPCI system. The mass flow rate value was used in the design calculations of steam flow across the steam line orifice and was used in developing the differential pressure setpoints and allowable values. The high dp Trip Setpoint is not affected by the deletion of the mass flow rate value and **, nor is it changed by the proposed amendment. Therefore, the change will result in no change to the assumptions or scenarios used to evaluate the probability or consequences of evaluated accidents.

(2) The proposed change to delete the mass flow rate and associated ** from Items 3.a.1 and 4.a.1 of Table 3.3.2-2 does not create the possibility of a new or different kind of accident from any accident previously evaluated. The proposed change does not affect system operation, nor does it change the Trip Setpoints or Allowable Values based on dp, and no safety-related equipment is altered. The mass flow rate value is not required to prevent any accident. Trip Set Points and Allowable Values, based on dp, are retained "as is" for the two Items.

(3) The proposed change to delete the mass flow rate and associated ** from Items 3.a.1 and 4.a.1 of Table 3.3.2-2 does not involve a significant reduction in a margin of safety. The Trip signal generated by a high dp is not affected by this change and therefore the actuation and isolation function remains the same. Therefore, the removal of the mass flow rate numbers and associated ** does not reduce any margin of safety.

The staff has reviewed the licensee's evaluation and concurs with it. On the basis of the above consideration, the staff proposes to find that the changes do not involve a significant hazards consideration.

Local Public Document Room location: Monroe County Library System, 3700 South Custer Road, Monroe, Michigan 48161.

Attorney for licensee: John Flynn, Esq., Detroit Edison Company, 2000 Second Avenue, Detroit, Michigan 48226.

NRC Project Director: Theodore R. Quay, Acting.

Duke Power Company, et al., Docket Nos. 50-413 and 50-414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of amendment request: April 6, 1989

Description of amendment request: The proposed revision would allow the conduct of a demonstration program regarding interface compatibility between three rod control cluster assemblies (RCCAs) supplied by Babcock and Wilcox Fuel Company (BWFC) and Westinghouse fuel assemblies at Catawba Unit 2. It would also allow the comparison of the wear characteristics of various RCCA clad materials. This demonstration program would involve changing the description of the Control Rod Assemblies in Section 5.3.2 of the Technical Specifications (TSs) for Catawba Unit 2 only. Unit 1 is included because the TSs for both units are combined in one document.

Two of the demonstration assemblies consist of control rods fabricated with Armaloy plated 304 stainless steel cladding. The third assembly consists of control rods fabricated with chromium carbide coated Inconel 625 cladding. In-reactor experience with the chromium carbide coating has shown that the coating performs extremely well.

The three RCCAs supplied by BWFC maintain the same design features as the Westinghouse 17x17 RCCAs. All of the primary interfaces have been verified by onsite dimensional measurement inspections made at McGuire Units 1 and 2. In addition, a dummy RCCA was fabricated and shipped to Catawba Unit 2 for interface and handling checkout. The licensee's submittal provides a summary of the design information and thermal hydraulic compatibility analysis for the demonstration RCCAs.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The proposed revision would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated because the change in the shutdown margin for the three demonstration RCCAs is negligible, and measurements would be performed during each cycle initial startup to verify the acceptability of the rod worths.

The proposed revision would not (2) create the possibility of a new or different kind of accident from any accident previously evaluated because the demonstration RCCAs would function similarly to those designed by Westinghouse, and no new modes of operation are introduced.

Finally, the proposed revision would not (3) involve a significant reduction in a margin of safety because the BWFC RCCAs should perform in accordance with Catawba TS limits before Unit 2 would commence its operation following the current refueling outage.

Accordingly, the Commission proposes to determine that the amendments do not involve a significant hazards consideration.

Local Public Document Room location: York County Library, 138 East Black Street, Rock Hill, South Carolina 29730

Attorney for licensee: Mr. Albert Carr, Duke Power Company, 422 South Church Street, Charlotte, North Carolina 28242

NRC Project Director: David B. Matthews

Duquesne Light Company, Docket No. 50-334, Beaver Valley Power Station, Unit No. 1, Shippingport, Pennsylvania

Date of amendment request: March 2, 1989

Description of amendment request: The proposed amendment would revise the reactor trip system and engineered safety feature (ESF) actuation system instrumentation trip setpoints and allowable values, based upon the results of a re-analysis of the instrument channel inaccuracies. All the changes are located in Tables 2.2-1 and 3.3-4 of the Technical Specifications. The licensee submitted Westinghouse report WCAP-11419, "Westinghouse Setpoint Methodology for Protection Systems, Beaver Valley Unit 1," to support this amendment request. The changes are needed to keep the reactor trip and ESF actuation setpoints, after factoring in the revised allowances of inaccuracy, within limits assumed in the Final Safety Analysis Report.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The proposed change does not involve a significant hazards consideration because:

(1) The basis of the reactor trip system and EFS actuation system trip settings are the limits in the safety analyses. The proposed changes to the trip settings and allowable values ensure that these safety analysis limits are maintained when the appropriate allowances for instrument channel inaccuracies, as revised, are considered. Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

(2) The proposed amendment would not cause any changes in plant equipment or design. Therefore, it does not create the probability of an accident or a malfunction different from ones previously evaluated.

(3) These changes will not affect the assumptions or consequences of any safety analysis presented in the FSAR. Therefore, the amendment will not involve a significant reduction in a margin of safety.

Accordingly, the staff proposes to determine that this amendment does not involve a significant hazards consideration.

Local Public Document Room location: B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001.

Attorney for licensee: Gerald Charnoff, Esquire, Jay E. Silberg, Esquire, Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: John F. Stolz

Gulf States Utilities Company, Docket No. 50-458, River Bend Station, Unit 1 West Feliciana Parish, Louisiana

Date of amendment request: March 21, 1989

Description of amendment request: The proposed amendment would relocate the requirements for the examination and testing of snubbers. The licensee's proposal would substitute Technical Specification (TS) 4.0.5 and the NRC approved Revision 2 to the River Bend Station Inservice Inspection (ISI) program for the current TS 3/4.7.4, "Snubbers". TS 4.0.5 states, in part:

4.0.5 Surveillance Requirements for inservice inspection and testing of ASME code Class 1, 2, & 3 components shall be applicable as follows:

a. Inservice inspection of ASME Code Class 1, 2, and 3 components and inservice testing of ASME Code Class 1, 2 and 3 pumps

and valves shall be performed in accordance with Section XI of the ASME Boiler and Pressure Vessel Code and applicable Addenda as required by 10 CFR 50, Section 50.55a(g), except where specific written relief has been granted by the Commission pursuant to 10 CFR 50, Section 50.55a(g)(6)(i).

Snubber inspection requirements are included in Article IWF, Section 11 of the ASME Code and Revision 2 of the River Bend Station (RBS) ISI program. Thus, TS 4.0.5 and the ISI program would define the snubber requirements.

Because of the proposed relocation of the snubber examination and testing requirements, the licensee's proposal would delete TS 3/4.7.4, Figure 4.7.4-1, "Sample Plan for Snubber Functional Test", and Bases Section 3/4.7.4.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The licensee provided an analysis that addressed the above three standards in the amendment application.

1. No significant increase in the probability of consequences of an accident previously evaluated results from the proposed change because:

The proposed change does not result in a change to the plant design or inspection and testing. As such, the proposed change does not change the response of the plant or equipment required for safety as described in Chapters 6 and 15 of the RBS Updated Safety Analysis Report. The NRC approved RBS ISI Plan continues to exceed the minimum inspection requirements of ASME Section XI for snubbers. The scope of actual examinations has not been reduced.

The requirements of the current Technical Specifications governing snubber inspections at RBS have been incorporated into the NRC approved RBS ISI Plan with the following exceptions:

A. Limiting Condition for Operation

A more conservative approach will be utilized by considering a system inoperable to which an operable snubber is attached, without allowing for a 72 hour component evaluation period prior to this determination. This is in keeping with ASME Section XI and the current Technical Specification definition of OPERABILITY. This change is intended to conform the RBS Technical Specifications with the NRC approved RBS ISI Plan, the requirements of ASME Section XI and the current definition of OPERABILITY.

B. The proposed change will include snubber load capacity as an additional criterion for sample type selection. Snubber sample selection based on load capacity as a criterion provides a more complete cross section of plant snubber population, and therefore, allows for more accurate test results and failure mode evaluation. Since only accessibility determines the scope of subsequent visual inspection, this additional criterion will have no impact on the scope of subsequent surveillances.

C. Visual Inspections

The proposed change to allow subsequent examinations of inaccessible snubber during reactor shutdown follows the guidelines for successive inspections as specified in ASME Section XI, the NRC approved Revision 2 to the RBS ISI Plan and Revision 2 to the Standard Technical Specifications. Allowing these examinations to be delayed until the next reactor shutdown of sufficient duration will also allow increased plant availability and will substantially decrease man-rem exposures as a result of these examinations.

Since these proposed changes do not result in a change to plant design or operating modes and do not result in a reduction in the scope of required snubber examinations, there is no significant increase in the probability or consequences of any accident previously evaluated.

2. The proposed change will not create the possibility of a new or different kind of accident than any previously evaluated because:

This proposal entails the transfer of responsibility for snubber inspections to comparable programs, both of which comply with the minimum requirements of ASME Section XI. The quantitative and qualitative scope of snubber examinations has not been reduced below the minimum requirements of ASME Section XI. Since the proposed change does not result in a change to the plant design or operating modes or reduce the scope of subsequent examinations, the proposed change cannot introduce the possibility of a new or different kind of accident than previously evaluated.

3. The proposed change does not involve a significant reduction in the margin of safety because:

The approach to snubber and system operability proposed in this amendment request is more conservative than that found in the current Technical Specifications. This added conservatism will act to increase, not decrease, any existing margin of safety. Additionally, the proposed change does not reduce the scope of subsequent examinations. Further, subsequent revisions to the RBS ISI Plan are required to be submitted for NRC review and approval prior to implementation. Therefore, the proposed change will not decrease the margin of safety.

Based on the above considerations, the proposed change does not increase the probability or the consequences of a previously evaluated accident, does not create the possibility of a new or different kind of accident from any previously evaluated, and does not involve a reduction in the margin of safety. Therefore, Gulf States Utilities company proposes that no significant hazards are involved.

The staff has reviewed the licensee's no significant hazards consideration determination. Based on the review and the above discussion, the staff proposed to determine that the proposed changes do not involve a significant hazards consideration.

Local Public Document Room Location: Government Documents Department Louisiana State University, Baton Rouge, Louisiana 70803

Attorney for licensee: Troy B. Conner, Jr., Esq., Conner and Wetterhahn, 1747 Pennsylvania Avenue, NW., Washington, DC 20006

NRC Project Director: Jose A. Calvo

Illinois Power Company, Soyland Power Cooperative, Inc., Docket No. 50-461, Clinton Power Station, Unit No. 1, DeWitt County, Illinois

Date of amendment request: December 21, 1988

Description of amendment request: The proposed amendment would revise Technical Specifications 3.6.2.7 to delete a limitation on the period of approval for drywell purge and vent system operation. The specific limitation is a footnote which states that the allowed system operation is applicable for the period from initial fuel load to 3 months after completion of the first refueling outage. The submittal states that this limitation should have only been included for the operation of the containment purge system and was inappropriately included for the drywell purge and vent system.

Basis for proposed no significant hazards consideration determination: The staff has evaluated this proposed amendment and determined that it involves no significant hazards consideration. According to 10 CFR 50.92(c), a proposed amendment to an operating license involves no significant hazards consideration if operation of the facility in accordance with the amendment would not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or

(3) Involve a significant reduction in a margin of safety.

The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated because the proposed change would only allow continued limited use of the drywell purge and vent system. The use of the system for pressure control was previously evaluated and approved by

the NRC in Clinton's Supplemental Safety Evaluation Report 5.

The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated because the proposed change introduces no changes to plant design or operation of the facility.

The proposed changes do not involve a significant reduction in a margin of safety because the changes do not alter the criteria for system operation. It only allows the system operation to continue past the original limited period.

For the reasons stated above, the staff believes this proposed amendment involves no significant hazards consideration.

Local Public Document Room location: Vespasian Warner Public Library, 120 West Johnson Street, Clinton, Illinois 61727.

Attorney for licensee: Sheldon Zabel, Esq., Schiff, Hardin and Waite, 7200 Sears Tower, 233 Wacker Drive, Chicago, Illinois 60606

NRC Project Director: Daniel R. Muller

Indiana Michigan Power Company, Dockets Nos. 50-315 and 50-316, Donald C. Cook Nuclear Plant, Units Nos. 1 and 2, Berrien County, Michigan

Date of amendments request: September 6, 1988

Description of amendments request: The amendment would delete Figure 6.2-1, "Organizational Relationships Within the American Electric Power System Pertaining to QA & QC and Support of the Donald C. Cook Nuclear Plant" and Figure 6.2-2, "Facility Organization - Donald C. Cook - Unit No. 1" and "... Unit No. 2", from the Technical Specifications in response to Generic Letter 88-06.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards in 10 CFR 50.92(c) for determining whether a significant hazards consideration exists. A proposed amendment to an operating license for a facility involves no significant hazards consideration, if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a signficant reduction in a margin of safety. The Indiana Michigan Power Company reviewed the proposed change and determined, and the NRC staff concurs, that:

(1) The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated because deletion of the organization charts from the Technical Specifications does not affect plant operation. As in the past, the NRC will continue to be informed of organization changes through other required controls. In accordance with 10 CFR 50.34(b)(6)(i) the applicant's organizational structure is required to be included in the Final Safety Analysis Report. Chapter 13 of the Final Safety Analysis Report provides a description of the organization and detailed organization charts. As required by 10 CFR 50.71(e), the Indiana Michigan Power Company submits annual updates to the FSAR. Appendix B to 10 CFR Part 50 and 10 CFR 50.54(a)(3) govern changes to organization described in the Quality Assurance Program. Some of these organizational changes require prior NRC approval. Also, it is Indiana Michigan Power Company's practice to inform the NRC of organizational changes affecting the nuclear facilities prior to implementation.

(2) The proposed amendment does not create the possibility of a new or different kind of accident than previously evaluated because the proposed change is administrative in nature, and no physical alterations of plant configuration or changes to set points or operating parameters are proposed.

(3) The proposed amendment does not involve a significant reduction in a margin of safety because Indiana Michigan Power Company, through its Quality Assurance Programs, its commitment to maintain qualified personnel in positions of responsibility, and other required controls, assures the safety functions will be performed at a high level of competence. Therefore, removal of the organizational chart from the Technical Specifications will not affect the margin of safety.

Accordingly, the Commission proposes to determine that this change does not involve a significant hazards consideration.

Local Public Document Room location: Maude Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: Theodore R. Quay, Acting.

Nebraska Public Power District, Docket No. 50-298, Cooper Nuclear Station, Nemaha County, Nebraska

Date of amendment request: January 27, 1989

Description of amendment request: The existing 250 Volt batteries at Cooper Nuclear Station are being replaced during the 1989 refueling outage by new lead-calcium batteries that have a greater ampere-hour capacity. The proposed amendment would raise the battery cell minimum voltage from 2.0 Volt to 2.15 Volt and change the minimum corrected specific gravity from 1.190 to 1.195 for the pilot cells and to specify a minimum of 1.200 specific gravity for the average of all connected cells. This is associated with replacing the present lead acid plate cell with lead-calcium cells.

Also, this requires a battery service or performance discharge test once each operating cycle depending on battery condition, time interval since the previous performance discharge test, and age of the battery.

Basis for proposed no significant hazards consideration determination: In accordance with the requirements of 10 CFR 50.92, the licensee submitted the following significant hazards evaluation:

1. Does the proposed license amendment involve a significant increase in the probability or consequences of any accident previously evaluated?

Evaluation:

1. The proposed amendment will replace the existing 250 Volt DC batteries with higher capacity lead-calcium cells that require a higher floating voltage and different specific gravity values. The capability to carry out the intended function and operation of the 250 Volt DC System will be unaffected and the system will continue to satisfy its safety design bases as stated in the Updated Safety Analysis Report. With the proposed minimum cell voltage and corrected specific gravities, the battery will have adequate capacity to supply the required emergency loads following a design basis accident. The system performance will be improved as the existing batteries are nearing the end of their design life. The proposed amendment will not involve a significant increase in the probability or consequences of any accident previously evaluated.

2. The present requirement is to subject the 250 VDC battery to a performance discharge test once every operating cycle. The proposed amendment will change the surveillance testing on the 250 Volt battery to require a battery service or a performance discharge test once every operating cycle depending on battery condition, time interval since the previous performance discharge test, and age of the battery. The new requirements are consistent with the IEEE Battery Working Group draft Standard Technical Specifications for installations at BWR facilities. Additionally, the NRC has previously accepted these surveillance requirements for the 125 VDC batteries with the issuance of Amendment No. 122 to the CNS license, and the 250 VDC battery cells are identical to those supplied for the 125 VDC batteries. These surveillance requirements will assure the battery capacity is adequate to supply the required 250 Volt DC loads in the time period following the design basis accident. The proposed amendment will not involve a significant

increase in the probability or consequences of any accident previously evaluated.

2. Does the proposed license amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Evaluation:

1. The proposed amendment will change the minimum cell voltages and specific gravities to reflect the replacement of the existing 250 Volt batteries with new lead-calcium cells. The operation and function of the 250 Volt DC System will be unaffected and remain as described in the CNS USAR. The proposed amendment will not create the possibility of a new or different kind of accident from any previously evaluated.

2. The proposed amendment would revise the surveillance testing for the 250 Volt station batteries which would better insure the operability of this system; however, this proposed amendment will not change the operation or function of the 250 Volt DC System as described in the USAR. The proposed amendment will not allow any new mode of plant operation or create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in the margin of safety?

Evaluation:

1. The new 250 Volt batteries will have greater ampere-hour capacity to safeguard the station in the event of a design basis accident until off site AC power sources are restored. The proposed amendment does not involve a significant reduction in the margin of safety.

2. The proposed amendment will revise the surveillance testing on the 250 Volt station batteries and will not affect the ability of the 250 Volt DC System to perform its intended function during normal or accident conditions. The proposed amendment does not involve a significant reduction in the margin of safety.

B. Additional basis for proposed no significant hazards consideration determination:

The Commission has provided guidance concerning the application of the standards for determining whether a significant hazards consideration exists by providing certain examples (48 FR 14870). This change is considered to fit the example: "(ix) A repair or replacement of a major component or system important to safety, if the following conditions are met: (1) The repair or replacement process involves practices which have been successfully implemented . . . , and (2) The repaired or replacement component or system does not result in a significant change in its safety function . . . " It is the District's belief that this change request falls within the guidance provided.

Based on the previous discussion, the licensee concluded that the proposed amendment request does not involve a significant increase in the probability or consequences of an accident previously evaluated; nor create the possibility of a new or different kind of accident from any accident previously evaluated; nor involve a significant reduction in the required margin of safety. The NRC staff has reviewed the licensee's no significant hazards considerations determination and agrees with the licensee's analysis. The staff has, therefore, made a proposed determination that the licensee's request does not involve a significant hazards consideration.

Local Public Document Room location: Auburn Public Library, 118 15th Street, Auburn, Nebraska 68305.

Attorney for licensee: Mr. G.D. Watson, Nebraska Public Power District, Post Office Box 499, Columbus, Nebraska 68601.

NRC Project Director: Jose A. Calvo

Niagara Mohawk Power Corporation, Docket No. 50-220, Nine Mile Point Nuclear Station, Unit No. 1, Oswego County, New York

Date of amendment request: March 16, 1989

Description of amendment request: The proposed amendment would revise the Technical Specifications to correct an error in Table 3.3.4 "Primary Containment Isolation Valve Lines Entering Free Space of the Containment." The change will clarify that the containment spray isolation valves do not receive automatic initiation signals to open on reactor low-low water level and high drywell pressure. The affected valves are open during plant operation as required by station operating procedures and receive no automatic closure signals including the signal for containment isolation. The valves may be closed during system testing, removal of water from the suppression pool, maintenance or suppression pool cooling. The Final Safety Analysis Report was previously revised to make this change. The proposed amendment corrects the Technical Specifications accordingly.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with a proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

In its March 16, 1989 submittal, the licensee provided the following analysis:

The operation of Nine Mile Point Unit 1, in accordance with the proposed amendment, will not create the possibility of a new or different kind of accident from any accident previously evaluated.

This change corrects an error so that the Technical Specifications conform to the actual plant design. Operation of the Containment Spray System is not effected by this change. As such, the changes is administrative in nature and does not create the probability of a new or different kind of accident from any accident previously evaluated. A table similar to 3.3.4 in the FSAR has previously been corrected.

The operation of Nine Mile Point Unit 1, in accordance with the proposed amendment, will not involve a significant reduction in a margin of safety.

The containment spray system operation is not effected by this change. Any one of the four containment spray loops (with its raw water pump) is capable of maintaining the containment temperature and pressure within the design basis. Automatic restoration of a loop in the test mode is not necessary to maintain existing safety margins. This change does not involve any significant reduction in margin of safety.

The operation of Nine Mile Point Unit 1, in accordance with the proposed amendment, will not involve a significant increase in the probability or consequences or an accident previously evaluated.

This change does not affect the capability of the containment spray system to meet its design basis. Since the original system design basis is met, the probability or consequences of an accident previously evaluated are not increased.

Based on the above, the staff proposes to determine that the amendment will not involve a significant hazards consideration.

Local Public Document Room location: Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

Attorney for licensee: Troy B. Conner, Jr., Esquire, Conner & Wetterhahn, Suite 1050, 1747 Pennsylvania Avenue, NW., Washington, DC 20006.

NRC Project Director: Robert A. Capra

Northeast Nuclear Energy Company, et al., Docket No. 50-423, Millstone Nuclear Power Station, Unit No. 3, New London County, Connecticut

Date of amendment request: March 10, 1989

Description of amendment request: The proposed change to Paragraph 1.A of Facility Operating License NPF-49 would delete the reference to the City of Burlington as one of the licensees for Millstone Unit 3.

Basis for proposed no significant hazards consideration determination: By letter dated February 13, 1989, the NRC staff was informed of a transfer of

a minor percentage ownership share between two of the existing licensees of Millstone Unit No. 3 effective as of February 15, 1989. Specifically, the change involves the transfer of the 0.0435 percent joint ownership interest of the City of Burlington, Vermont to the Connecticut Municipal Electric Energy Cooperative (CMEEC). Both the City of Burlington and the CMEEC have been associate participants in Millstone Unit No. 3 as provided in the Sharing Agreement dated September 1, 1973.

The staff has made a determination in accordance with 10 CFR 50.92 that this application for amendment is enveloped by example viii (March 6, 1986, 51 FR 7751), a change to a license to reflect a minor adjustment in ownership among co-owners, and, as such, does not involve a significant hazards consideration.

Local Public Document Room location: Waterford Public Library, 49 Rope Ferry Road, Waterford, Connecticut 06385.

Attorney for licensee: Gerald Garfield, Esquire, Day, Berry & Howard, One Constitution Plaza, Hartford, Connecticut 06103-3499.

NRC Project Director: John F. Stolz

Northeast Nuclear Energy Company, et al., Docket No. 50-423, Millstone Nuclear Power Station, Unit No. 3, New London County, Connecticut

Date of amendment request: March 14, 1989

Description of amendment request: The proposed amendment would change the Millstone Unit 3 Technical Specifications (TS) to replace the Surveillance Requirements of TS 4.3.4, "Turbine Overspeed Protection," as follows: (1) TS 4.3.4.2 would be deleted and replaced with a reference to the requirements of the "Turbine Overspeed Protection Maintenance and Testing Program," and (2) TS 6.5.1.6, "Responsibilities," would be supplemented by adding item (j) which would require that the Plant Operations Review Committee (PORC) provide for "Review of Unit Turbine Overspeed Protection Maintenance and Testing Program and revisions thereto." In addition, a footnote would be added to the applicability for TS 3.3.4 to state that the Turbine Overspeed Protection System need not be operable, "... in MODE 2 or 3 with all main steam line isolation valves and associated bypass valves in the closed position and all other steam flow paths to the turbine isolated."

Basis for proposed no significant hazards consideration determination: By letter dated November 7, 1988, Northeast Nuclear Energy Company (the licensee) submitted the Millstone Unit 3 Turbine Overspeed Protection Maintenance and Test Program (TOPMTP). The TOPMTP encompasses the surveillance requirements of Section 4.3.4.2. In addition, the TOPMPT provides for other turbine overspeed system related tests and for high and low pressure turbine rotor inspections, thereby assuring an acceptably low probability of a rotor burst at or near design overspeed. Avoiding destructive overspeed and rotor failures is essential to minimizing the probability of the generation of turbine missiles which could impact and damage safety-related components, structures, and equipment. The more comprehensive TOPMPT provides the necessary assurance that the probability of turbine generated missiles will remain at or below the criteria of 1×10^{-5} per year in accordance with Standard Review Plan, Section 3.5.1.3, "Turbine Missiles." The proposed change to TS 6.5.1.6(f) would provide for administrative and technical oversight, by the licensee, for the TOPMPT.

With regard to the proposed footnote to TS 3.3.4, the provision would allow the inoperability of the Turbine Overspeed Protection System, during operational Modes 2 and 3 (hot standby and low power generation) only under specified conditions which prevent the turbine, itself, from operating.

Title 10 CFR Part 50, Section 50.92 contains standards for determining whether a proposed license amendment involves significant hazards considerations. In this regard, the proposed changes to the TS does not:

1. Involve a significant increase in the probability or consequences of an accident previously analyzed. The TOPMPT encompasses all of the surveillance requirements of Section 4.3.4.2 and also provides for additional turbine overspeed protection system related tests and high and low pressure turbine rotor inspections. Since the intent of this change is to ensure the reliability of the overall Turbine Overspeed Protection System, (i.e., channel calibration and testing of related components), there is no adverse impact on any design basis accident. This program would also provide the necessary assurance that the probability of turbine generated missiles will remain at or below the NRC criteria, eliminating the need for considering turbine missiles in design basis analysis. In addition, the proposed change to TS 6.5.1.6(f), requiring PORC oversight of the TOPMPT provides reasonable assurance that changes to the TOPMPT will not adversely affect the program.

With regard to the proposed inoperability of the Turbine Overspeed Protection System during Modes 2 and 3, the probability of turbine failure would not increase since the turbine cannot be operated under the proposed restrictions.

2. Create the possibility of a new or different kind of accident from any previously analyzed. Since there are no changes in the way the plant is operated, the potential for an unanalyzed accident is not created. No new failure modes are introduced.

3. Involve a significant reduction in a margin of safety. The proposed replacement of the Section 3/4.3.4.2 turbine overspeed protection surveillance requirements with a newly developed comprehensive maintenance and testing program does not introduce any adverse impacts. Since the proposed changes also do not affect the consequences of any accident previously analyzed, there is no reduction in the margin of safety.

Accordingly, the staff has made a proposed determination that the application for amendment involves no significant hazards consideration.

Local Public Document Room location: Waterford Public Library, 49 Rope Ferry Road, Waterford, Connecticut 06385.

Attorney for licensee: Gerald Garfield, Esquire, Day, Berry & Howard, One Constitution Plaza, Hartford, Connecticut 06103-3499.

NRC Project Director: John F. Stolz

Northern States Power Company, Docket No. 50-263, Monticello Nuclear Generating Plant, Wright County, Minnesota

Date of amendment request: March 7, 1989

Description of amendment request: The proposed license amendment would revise the existing Technical Specifications to permit the use of up to two alternates in meeting the quorum requirements for the plant Operations Committee. The plant Operations Committee consists of at least six members drawn from the key supervisors of the On-Site Supervisory Staff whose responsibilities include the review of (1) modifications to plant systems or components described in the Updated Safety Analysis Report, (2) changes to normal and emergency operating procedures, (3) proposed Technical Specification changes, and (4) the results of Technical Specification violation investigations.

Basis for proposed no significant hazards consideration determination: The Commission has provided

standards for determining whether a significant hazards consideration exists [10 CFR 50.92(c)], and has also published certain examples for making such determinations (51 FR 7751). One of the examples published is "(i) A purely administrative change to the technical specifications: for example, a change to achieve consistency throughout the technical specifications, correction of an error, or a change in nomenclature."

The licensee has evaluated the proposed Technical Specification changes against the standards and examples provided by the Commission and has concluded that the changes are purely administrative. The Commission's staff has reviewed the licensee's evaluation and agrees that the changes are administrative in nature. The changes will upgrade the existing Technical Specifications to make them consistent with the Standard Technical Specifications developed for General Electric boiling water reactors which (1) allows the use of alternates for regular Operations Committee members in meeting committee quorum requirements, thereby, reducing the heavy time demands placed on Operations Committee regular members, and (2) provides for a reasonable degree of flexibility in the day-to-day business of plant operational activities which will not compromise safety.

Local Public Document Room location: Minneapolis Public Library, Technology and Science Department, 300 Nicollet Mall, Minneapolis, Minnesota 55401.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: Theodore R. Quay, Acting.

Pacific Gas and Electric Company, Docket Nos. 50-275 and 50-323, Diablo Canyon Power Plant, Unit Nos. 1 and 2, San Luis Obispo County, California

Dates of amendment request: December 19, 1988 and March 23, 1989 (Reference LAR 88-10).

Description of amendment request: The proposed amendments would revise the combined Technical Specifications (TS) for the Diablo Canyon Power Plant (DCPP) Unit Nos. 1 and 2 to incorporate the undervoltage trip and shunt trip attachments testing recommended by WCAP-11312, "Reactor Trip Breaker Maintenance/Surveillance Optimization Program," for compliance with the guidance provided by Generic Letter 85-09. These operability and testing requirements are based on the NRC staff's evaluation of the Westinghouse generic design modifications for the reactor trip system using shunt coil trip attachments. In its evaluation the staff concluded that independent testing of the undervoltage and shunt trip attachments during power operation and independent testing of the control room manual switch contacts during each refueling outage are necessary to insure reliable trip breaker operation.

Specifically, the following TS changes are proposed:

1. Action Statement 12 would be added to TS Table 3.3-1 to provide for a 48 hour allowed outage time after one of the diverse reactor trip features (Undervoltage or Shunt Trip Attachment) has been declared inoperable in either Mode 1 or 2. If the inoperable trip feature is not restored to operable status within 48 hours, Action Statement 10 would apply.

2. Table Notation 15 of TS Table 4.3-1 would be added to require that the trip actuating device operational test on the Manual Reactor Trip independently verify the operability of the Undervoltage Trip and Shunt Trip circuits.

3. Notation 11 of TS Table 4.3-1 would be revised to indicate that each trip actuating device operational test of the reactor trip breakers shall separately verify the operability of the Undervoltage Trip and Shunt Trip Attachments.

4. The Reactor Trip Bypass Breaker would be added to TS Table 4.3-1 including the associated Notation 16, which requires a local manual shunt trip test prior to placing the breaker in service, and Notation 17, which requires testing of the automatic undervoltage trip.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a no significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee, in its submittal of December 19, 1988, evaluated the proposed changes against the significant hazards criteria of 10 CFR 50.92 and against the Commission guidance concerning application of this standard. Based on the evaluation given below, the licensee has concluded that the proposed changes do not involve a significant hazards consideration. The licensee's evaluation is as follows:

a. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

Addition of the operability and surveillance requirements for the Undervoltage Trip and Shunt Trip Attachments constitute a set of requirements more restrictive than presently included in the technical specifications and will result in an increase in the reliability of the reactor trip breaker and the reactor trip system. Therefore, the proposed amendment to add operability and surveillance requirements for the Undervoltage Trip and Shunt Trip Attachments does not involve a significant increase in the probability of an accident previously evaluated.

b. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

Testing of the Undervoltage Trip and Shunt Trip Attachments will not result in any new or previously unevaluated plant configurations. Therefore, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

c. Does the change involve a significant reduction in the margin of safety?

Addition of the operability and surveillance requirements for the Undervoltage Trip and Shunt Trip Attachments help ensure the functioning of the reactor trip system when needed and will result in an increase in the reliability of the reactor trip breaker and the reactor trip system. Therefore, the proposed amendment does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's no significant hazards consideration determination. The staff has concluded that the proposed TS changes constitute additional restrictions on plant operation that will result in increased plant reliability. Therefore, the staff agrees with the conclusion of the licensee's determination. Accordingly, the Commission proposes to determine that these changes do not involve a significant hazards consideration.

Local Public Document Room location: California Polytechnic State University Library, Government Documents and Maps Department, San Luis Obispo, California 93407.

Attorneys for licensee: Richard R. Locke, Esq., Pacific Gas and Electric Company, P.O. Box 7442, San Francisco, California 94120 and Bruce Norton, Esq., c/o Pacific Gas and Electric Company, P.O. Box 7442, San Francisco, California 94120.

NRC Project Director: George W. Knighton

Pennsylvania Power and Light Company, Docket No. 50-387, Susquehanna Steam Electric Station, Unit 1, Luzerne County, Pennsylvania

Date of amendment request: February 24, 1989

Description of amendment request: The proposed amendment would change the SSES, Unit 1 Technical Specifications to permit residual heat removal (RHR) system modification which eliminates the steam condensing mode of RHR operation. The licensee had previously requested and the Commission approved a similar request for SSES, Unit 2 in Amendment No. 49, dated May 24, 1988.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The staff has reviewed the licensee's request and concurs with the following basis and conclusion provided by the licensee in its submittal.

I. The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated. . . . the containment isolation function is not adversely impacted by this change. This conclusion is based upon (the fact that the) containment isolation and integrity are ensured by the FO11 A/B valves meeting existing regulatory criteria and because no increase to the allowable leakage limits is being proposed.

The removal of the FO11 A/B and FO26 A/B valves from Table 3.6.4.2.1-1 is due to the fact that they are no longer motor-operated and therefore do not have to have thermal overload protection.

All pertinent sections of FSAR Chapter 15 were reviewed in support of this evaluation. Based on the above, neither the probability nor the consequences of any previous analysis (are) affected by the proposed change.

II. The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

Since the power from the FO11 A/B and FO68 A/B valves is removed and the leakage requirements for containment integrity and isolation do not change, no new concerns are created by this proposal. (Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated).

III. The proposed changes do not involve a significant reduction in a margin of safety.

Since the containment isolation and integrity are assured to the same relevant criteria as discussed previously, the overall safety margin has not been significantly reduced due to the proposed changes.

Based on the above considerations, the Commission proposes to determine that the proposed changes involve no significant hazards consideration.

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701

Attorney for licensee: Jay Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street NW., Washington, DC 20037

NRC Project Director: Walter R. Butler

Power Authority of the State of New York, Docket No. 50-333, James A. FitzPatrick Nuclear Power Plant, Oswego, New York

Date of amendment request: October 13, 1987, as supplemented March 31, 1989.

Description of amendment request: The proposed amendment would delete a Technical Specification (TS) surveillance test of the scram discharge system which requires that a manual scram of the reactor be performed from a control rod configuration of less than or equal to 50% rod density once each operating cycle. This test was intended to verify the operability of the scram discharge system. However, it is felt that other surveillance requirements which are present in the TS which do not involve a scram, are already in effect which adequately demonstrate this operability. Additionally, the licensee has committed to performing an evaluation of the operation of the scram discharge volume prior to restart, should a scram occur. This proposed change, therefore, will reduce the number of unnecessary challenges to the reactor protection system and the resulting transient. Other proposed changes are made to correct typographical errors which exist on the same page.

Specifically, the proposed change would delete Specification 4.3.A.2.g so that a scram at 50% control rod density would no longer be required. When any scram occurs, the scram discharge piping and the instrument volume vent and drain valves automatically shut to isolate the system from the reactor building environs. The piping and instrument volume then receive the water discharged from the control rod drives as they force the control rods into the core.

A scram discharge system modification was installed some years ago to ensure the adequacy of this system and a post-installation test was performed at that time which proved the adequacy of the design. Since no unexpected changes can be expected which affect this design, repeated tests of the adequacy of the system by manual scram are not necessary. Other TS requirements (namely, Specifications 4.3.A.2.b, 4.3.A.2.f, 4.3.C.3, Table 4.1-1, and Table 4.1-2) adequately ensure the continued operability of the scram discharge system. Therefore, no decrease in testing which is designed to ensure the availability and operability of the scram discharge system results from deleting the 50% rod density scram test requirement. Also, the proposed change is consistent with the testing requirements of most BWR plants and with the Standard Technical Specifications.

The proposed administrative changes would (1) relocate Specification 3.3.A.2.e which is located on page 89a to the right-hand column of the page so that it becomes 4.3.A.2.e, (2) replace the colon in the second sentence of the new Specification 4.3.A.2.e with a comma and add "a" after the comma, and (3) remove the period from the end of Specification 3.3.A.2.d, combine it with its continuation which is on page 90, and place the entire specification onto page 89a.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with a proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

The licensee has evaluated the proposed amendment against the standards in 10 CFR 50.92 and the licensee's findings are summarized below:

Operation in accordance with the proposed Amendment would not involve a significant hazards consideration as stated in 10 CFR 50.92 since it would not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated. The removal of this surveillance requirement does not affect any accident as analyzed in the FSAR. Other surveillance requirements exist in the Technical Specifications which ensure the operability of the scram discharge system to perform as required during a reactor protection system actuation.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated. The elimination of an unnecessary surveillance requirement and challenge to the reactor protection system cannot initiate or contribute to a new or different accident.

3. Involve a significant reduction in a margin of safety. This surveillance requirement was intended to demonstrate operability of the scram discharge system which is assumed in the FSAR accident analyses. Removal of this surveillance has no effect on these analyses since the design of the modified system together with other Technical Specification surveillance requirements assure the operability of the scram discharge system. The resulting elimination of an unnecessary challenge to the reactor protection system is consistent with industry and regulatory philosophy and goals.

The staff has reviewed the licensee's no significant hazards consideration determination. Based on the review and the above discussion, the staff proposes to determine that the proposed changes do not involve a significant hazards consideration.

Local Public Document Room location: State University of New York, Penfield Library, Reference and Documents Department, Oswego, New York 13126.

Attorney for licensee: Mr. Charles M. Pratt, 10 Columbus Circle, New York, New York 10019.

NRC Project Director: Robert A. Capra

Power Authority of the State of New York, Docket No. 50-333, James A. FitzPatrick Nuclear Power Plant, Oswego, New York

Date of amendment request: May 27, 1988

Description of amendment request: The proposed amendment would correct various minor Technical Specification (TS) problems which have been discovered as a result of various reviews by correcting typographical and grammatical errors and removing unnecessary pages. Also, other minor changes are incorporated for consistency of terminology and agreement with previous amendment changes which have been issued but which can be better addressed by the changes shown herein. All changes are administrative in nature and improve the clarity of the TS.

Specifically, the proposed changes (listed by TS page number) would: (i) add "Specification 3.0" and its title "General" to the Table of Contents and change the page number for Specification 3.1 to "30f." The actual TS changes were issued as Amendment No. 83; (vi) add Tables 4.6-2, 3.12-1, 3.12-2, 3.12-3, 4.12-1, 4.12-2 and 4.12-3 and their titles to the List of Tables. The first table was added to the TS as Amendment No. 28 and the rest by Amendment No. 34 but were not added to the List of Tables at that time; (vii) update the List of Figures by adding a symbol to the title for Figure 3.1-2 and adding the specification number to the title for Figure 3.5-1, deleting Figure 3.5-9 (which was removed from the TS by Amendment No. 109), and adding Figure 3.5-12 (which was incorporated into the TS by Amendment No. 109); (1) correct the spelling of "explicitly" in the first sentence; (2) add "a" into the first sentence of the definition of Instrument Check to correct the grammatical error; (4) insert Amendment No. "83" at the bottom of the page to reflect that the page was affected by the amendment. Also, replace "trips" with "trip" in the first sentence of the definition for startup/hot standby mode; (5) correct the spelling of the abbreviation for "continued" at the top of the page and delete "a" from the Refueling Outage definition; (6) replace "a" with "n" in Specification 1.0.X.a before the word "systems," since n means number of systems. Also, place the n in the last line of the specification inside quotation marks; (8) replace "less than" with "less than or equal to" for core flow in Specification 1.1.B; (29) correct the spelling of "resulting" in Specification 1.2 and 2.2 Bases; (30b) correct the spelling of "inoperable" in Specification 3.0.E Bases; (34) rewrite the top paragraph, right column (3.1 Bases), to more clearly describe the nuclear instrumentation coverage for the designated modes of operation; (38) insert "44" into the Amendment Number list to show that the page was changed by this amendment; (41) indicate in Table 3.1-1 with an "X" that the manual scram trip function must be operable in the Run mode. Amendment No. 98 inadvertently deleted this indication when the amendment request was submitted and issued; (41b) add two Less Than Symbols to Table 3.1-1, one before and one after "P," for the turbine control valve fast closure trip setting. They were not included in an earlier revision to the page; (42) add a Less Than or Equal To Symbol to Table 3.1-1 for the setpoint of the 10% valve closure trip level setting and add "is less than" to Note 3 ahead of "1005." These were omitted from an earlier revision; (57) correct five grammatical errors (replace "drop" with "drops" in the second paragraph, remove "this" from the fourth paragraph, replace "of" with "or" in the fourth paragraph, replace "setting" with "settings" in the fifth paragraph, and replace "and" with "or" in the fifth paragraph before the "40"), and delete "flow" from the sixth paragraph to indicate that the reactor water cleanup trip instrumentation is independent of flow; (58) correct the spelling of "channel" in the ninth paragraph; (61) insert a "t" after the "2" in the mathematical equation for the optimum interval between tests; (68) insert "THIS ITEM INTENTIONALLY BLANK" for Item 10 in Table 3.2-2. This should have been included in the submittal for Amendment No. 84; (70a) replace "psid" with "dp" in Item 28 of Table 3.2-2 for the Trip Level Setting to more correctly identify the expression. Also, insert "THIS ITEM INTENTIONALLY BLANK" for Items 22, 23 and 24. These should have been included in the submittal for Amendment No. 48; (70b) insert "dp" in Item 31 to Table 3.2-2 for the trip level setting for the HPCI turbine steam line high flow trip function; (76c) correct the spelling of "permissible" in Note 13; (77) correct the symbol for the reactor water level instrument setting by replacing the Greater Than Symbol with a Greater Than Or Equal To symbol; (89a and 90) rearrange the information so that the appropriate paragraphs fall under the appropriate specification (4.3.A.2.e will reside in the right side column and 3.3.A.2.d will continue with the text on the next page); (91) replace "rods" with "rod" in Specification 3.3.B.1; (101) delete "feedwater from" in the fourth complete sentence of the first paragraph in the right column, since rod worth minimizer automatic cutout is determined by steam flow only-not feedwater flow; (106) insert "B" for the paragraph number to identify Specification 3.4.B; (114) add the change bars which should have been indicated from Amendment No. 95; (115a) delete "of 3700 gpm" from 4.5.B.1 which should have been removed in the submittal for Amendment No. 71 since it pertained to the emergency service water pump surveillance requirement. Also, the test criteria is given in the referenced TS section; (118) correct the paragraph referenced from 3.5.C to 3.5.C.1 in

Specification 3.5.C.1.b; (119) replace "relief/safety" with "safety/relief" in four places for consistency of terminology; (122) identify the specification by inserting "F" to designate Specification 3.5.F; (123) insert "at" to grammatically correct the fourth sentence of Specification 3.5.H; (142a) delete the "effective" date note since it is no longer needed; (142b) delete the text on the page since it is no longer needed and insert "This page intentionally blank;" (143) change Specification "3.6.B.1" to "3.6.E.1" and Specification "3.6.B.2" to "3.6.E.2" in Specification 3.6.E.3 to correct the reference. Also, delete the "effective" date note since it is no longer needed; (143a & b) delete the text on the pages since it is no longer needed and insert "This page is intentionally blank;" (144) replace "operable" with "inoperable" in the second sentence under Specification 3.6.G to correct a typo error and correct the meaning of the specification; (152) delete "coincident high drywell pressure and" from the second sentence of the second paragraph since a plant modification F1-83-034 removed the high drywell pressure permissive for ADS actuation from the ADS logic. It was reflected in other TS pages in Amendment No. 84 but this page change was inadvertently omitted from the submittal. Also, in the same paragraph, replace "low-low" with "low-low-low" to correct an error which has existed since the initial TS was issued. Also, replace "relief/safety" with "safety/relief" in five places for terminology consistency; (153) insert "less than or equal to" before 212° F at the top of the page for clarification. Also, correct the spelling of "will" in the fourth paragraph of the Bases for Specification 3.6.F; (171) correct the referenced table from 3.7-1 to 4.7-2 in Specification 4.7.A.2.c.(1); (172) correct the referenced table from 3.7.2 to 4.7-2 in Specification 4.7.A.2.c.(4); (174) add "40" at the bottom of the page as an Amendment Number since this amendment affected this page. Also, correct a grammatical error by replacing "on" with "of" in the fourth sentence of Specification 4.7.A.2.f; (177) insert "less than or equal to" ahead of "0.5" in Specification 3.7.A.4.a; (178) replace "The" with "When" in the first line of Specification 3.7.A.5.a to correct a grammatical error; (179) replace "chamberreactor building" with "chamber/drywell" for terminology consistency; (186) move the comma after "trip" and insert it after "level" to correct a grammatical error in Specification 4.7.D.1.c.(2); (194) replace "AEC" with "Commission" in two places in the forth full paragraph. Also, reposition the comma from before "(16)" to after "(16)" in the same paragraph; (201) correct the drywell TIP purge penetration number from X-35B to X-35E in two places; (211, 212, 213) correct the table number from "3.7-2" to "4.7-2," which was incorrectly renumbered in the submittal for Amendment No. 40, to change it back to its original number; (214) change the third sentence of the first paragraph of Specification 3.8 to read: "If the test reveals the presence of 0.005 microcuries or more of removable contamination, the source shall be decontaminated, and repaired, or be disposed of in accordance with Commission regulations." for clarification. Also, insert "a" into the third sentence of Specification 4.8.2 before "certificate" to correct a grammatical error; (219) insert "one" into the first sentence of Specification 3.9.C.2.a. before the first "fuel oil." It was inadvertently omitted in the submittal for Amendment No. 83; (226) correct the spelling of "tests" in the Bases for Specification 4.9.F; (236) correct the spelling of "BASES;" (239) replace "3.5.D" with "3.5.B" in Specification 3.11.B.1. Also, correct the spelling of "ventilation" in Specification 4.11.C.1; (240) insert "both ESW systems shall be" in the first sentence of Specification 3.11.D.1 for clarity and delete "the" from the first line to correct a grammatical error; (242) replace "3.11.E.1" with "4.11.E.1" in Specification 4.11.E.2 to correct the error; (244a) replace "once/week" with "once/month" for the test frequency specified in Section 4.12.A.1.b to correct an error introduced when the submittal for Amendment No. 80 was produced. This change was mistakenly incorporated into the Amendment but was never analyzed by the licensee or the NRC and restores the frequency to that existing prior to Amendment No. 80; (244f) replace table "3.12.2" with "3.12.3" to correct Specification 3.12.D.1.a and b; (244i) replace table "3.12.2" with "3.12.3" to correct Specification 3.12.D Bases; and (248) replace "Coordinator" with "Superintendent" in the first paragraph of Section 6.4 to be consistent with the organization chart.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with a proposed amendment would not: (1) Involve a significant increase in the probability of consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

The licensee has evaluated the proposed amendment against the standards in 10 CFR 50.92 and the licensees' findings are summarized below:

The proposed changes involve no significant hazards considerations. They are all administrative or editorial in nature and include typographical errors, grammatical errors, and clarification of specifications. Operation in accordance with the proposed amendment would not involve a significant hazards consideration as stated in 10 CFR 50.92 since it would not:

1. Involve significant increase in the probability or consequences of an accident previously evaluated. The intent of the proposed changes are to clarify and correct the TS. The changes are administrative and include: correction of misspelled words, deletion of expired pages, and correction of grammatical errors. There are no setpoint changes, safety limit changes, surveillance requirement changes that were not previously evaluated, or changes to any limiting conditions for operation. These changes have no impact on plant safety or plant operations and will have no impact on previously evaluated accidents.

2. Create the possibility of a new or different kind of accident previously evaluated. The proposed changes are purely administrative in nature and involve only the correction of typographical and similar errors. These proposed changes are intended to clarify and improve the quality of the TS. This cannot create the possibility of a new or different kind of accident.

3. Involve a significant reduction in the margin of safety. The proposed changes correct errors which currently exist in the TS. The changes are all administrative in nature and will clarify the specifications by eliminating errors such as typographical errors. These changes do not change any setpoints or safety limits regarding isolation or alarms. The proposed changes do not affect the environmental monitoring program. These changes do not affect the plant's safety systems and do not reduce any safety margin.

The staff has reviewed the licensee's no significant hazards consideration determination. Based on the review and the above discussion, the staff proposes to determine that the proposed changes

do not involve a significant hazards consideration.

Local Public Document Room location: State University of New York, Penfield Library, Reference and Documents Department, Oswego, New York 13126.

Attorney for licensee: Mr. Charles M. Pratt, 10 Columbus Circle, New York, New York 10019.

NRC Project Director: Robert A. Capra

Rochester Gas and Electric Corporation, Docket No. 50-244, R.E. Ginna Nuclear Power Plant, Wayne County, New York

Date of amendment request: February 24, 1989

Description of amendment request: The proposed amendment would modify the rod insertion limits for the Cycle 19 fuel reload to ensure that all criteria for the reload are met. Since the change is not applicable to future cycles, it is presented as a change with a limited period of applicability.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards determination exists as stated in 10 CFR 50.92(c). A proposed amend ment to an operating license involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; (3) involve a significant reduction in a margin of safety.

The licensee's analyses contained in the February 24, 1989, letter states the following:

In accordance with 10 CFR 50.91, these changes to the Technical Specifications have been evaluated to determine if the operation of the facility in accordance with the proposed amendment would:

1. involve a significant increase in the probability or consequences of an accident previously evaluated; or

2. create the possibility of a new or different kind of accident from any accident previously evaluated; or

3. involve a significant reduction in a margin of safety.

The proposed change would require the bank D control rods to be withdrawn 5 steps further during full power operation. Withdrawing the rods above the insertion limit increases the shutdown margin, decreases the ejected rod worth, reduces power peaking, and does not alter stuck rod worth. Therefore, withdrawing the rods is conservative and ensures that the safety criteria for the Cycle 19 reload are met, there is no significant increase in the probability or consequences of an accident previously evaluated. Ensuring the criteria are met does not create the possibility of a new or different kind of accident or result in a reduction in a margin of safety.

Therefore, Rochester Gas and Electric submits that the issues associated with this amendment request are outside the criteria of 10CFR50.91 and a no significant hazards finding is warranted.

The Commission has provided guidance concerning the application of the standard in 10 CFR 50.92 for determining whether a significant hazards consideration exists by providing certain examples of amendments that will likely be found to involve no significant hazards considerations. The changes to the Technical Specifications proposed in this amendment request to the Technical Specifications proposed in this amendment request are similar to NRC example (iv). Example (iv) relates to the granting of a relief from an operating restriction upon demonstration of acceptable means of operation. This assumes that acceptable operating criteria have been established and that it is satisfactorily shown that the criteria have been met.

Based on this guidance and the reasons discussed above, the licensee has concluded that the proposed change does not involve a significant hazards consideration. The Commission agrees with this conclusion.

Local Public Document Room location: Rochester Public Library, 115 South Avenue, Rochester, New York 14610.

Attorney for licensee: Harry Voigt, Le Boeuf, Lamb, Leiby and McRae, Suite 1100, 1133 New Hampshire Avenue, NW., Washington, DC 20036.

NRC Project Director: Richard H. Wessman

Sacramento Municipal Utility District, Docket No. 50-312, Rancho Seco Nuclear Generating Station, Sacramento County, California

Date of amendment request: October 7, 1988 as supplemented November 18, 1988

Description of amendment request: The proposed amendment would revise Technical Specifications (TS) 3.4 and 4.8. The changes proposed to TS 3.4 would clarify the operational mode applicability of that specification and the definition of Auxiliary Feedwater (AFW) train. The references to "SFW" (Startup Feedwater) would be changed in Specification 3.4 to reflect the fact that the startup valves are part of the Main Feedwater (MFW) System.

The proposed amendment would delete the words "to the condenser" from TS 4.8.1 to reflect alternate recirculation flow paths available for AFW pump testing and change the reactor coolant system average temperature above which the AFW system is to be tested from greater than or equal to 305 degrees Fahrenheit to greater than or equal to 280 degrees Fahrenheit.

The proposed amendment would also revise the surveillance requirements and frequency of verifying the flow path of the AFW System.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with a proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

The proposed amendment does not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated because, based on licensee's evaluation, the proposed changes are clarifications that should more clearly define the operating modes and additional limitations that increase the range in which the AFW system is to be tested; additionally, the proposed changes to TS 4.8 should continue to ensure proper operation of the AFW system flow paths and existing administrative controls provide additional assurance of proper flow paths operation; (2) create the possibility of a new or different kind of accident from any accident previously evaluated because the function of the AFW System will not be changed and the operability of the system and its ability to perform its intended function will be maintained; (3) involve a significant reduction in a margin of safety because adequate administrative controls will be maintained to ensure the proper operation of the AFW System flow paths.

Based on the above discussion, the staff proposes to determine that the proposed amendment does not involve a significant hazards consideration.

Local Public Document Room location: Martin Luther King Regional Library, 7340 24th Street Bypass, Sacramento, California 95822

Attorney for licensee: David S. Kaplan, Sacramento Municipal Utility

District, 6201 S Street, P.O. Box 15830, Sacramento, California 95813

NRC Project Director: George W. Knighton

Tennessee Valley Authority, Docket No. 50-260, Browns Ferry Nuclear Plant, Unit 2, Limestone County, Alabama

Date of amendment request: February 24, 1989 (TS 263)

Description of amendment request: The proposed amendment corrects Browns Ferry Unit 2 (BFN2), Technical Specifications Tables 4.1.B, 4.2.B, and 4.2.F for calibration frequencies. The amendment also includes administrative changes to instrument numbers, and deletes instrument checks for four instrument channels.

Setpoint and scaling calculations for various instrument loops that contain transmitters manufactured by Tobar, Inc. require changing the calibration frequency to once every 6 months. Three loops at BFN2 are affected. Two of the loops have calibration frequencies of once every 18 months. One loop has a calibration frequency of once every 12 months. The proposed change would require calibration frequencies of once every 6 months for each of the three loops.

Changes to instrument numbers for ten instruments in Tables 3.2.B and 4.2.B are proposed. These changes are administrative in nature and do not change the function, setting or calibration interval of any of the ten instruments. The instrument numbers are included in the technical specifications for completeness.

Instrument checks for four instrument channels in Table 4.2.B that have no remote or local indications will also be deleted by the proposed amendment.

Basis for proposed no significant hazards consideration determination: The Commission has provided Standards for determining whether a significant hazards determination exists as stated in 10 CFR 50.92(c). 10 CFR 50.91 requires that at the time a licensee requests an amendment, it must provide to the Commission its analyses, using the standards in Section 50.92, on the issue of no significant hazards consideration. Therefore, in accordance with 10 CFR 50.91 and 10 CFR 50.92, the licensee has performed and provided the following analysis:

NRC has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license involves no significant hazards considerations if operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated, (2) create the possibility of a new or different kind of accident from an accident previously evaluated, or (3) involve a significant reduction in a margin of safety.

1. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated. The primary factor in setting the calibration intervals is the drift of the transmitters and trip units. TVA has performed setpoint scaling calculations that support the proposed change using manufacturers recommended intervals and industry standard practices. This change does not involve a design change or physical change to the plant. The revised surveillance frequencies will not affect the consequences of an accident previously analyzed.

The reliability of the HPCI/RCIC diaphragm high pressure, steam line flow and steam supply pressure instruments are adequately assured by the performance of functional tests every 31 days.

Clarifications or corrections of typographical errors are administrative changes which improve technical specification reliability and therefore can have no detrimental impact.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated because changing the technical specifications to reflect different calibration frequencies does not affect or change design operating limits or protective setpoints. No new or different modes of operation are allowed by these changes.

3. The proposed change does not involve a significant reduction in a margin of safety because in no instance will these changes affect the technical specification safety limits. These changes have no affect on the instrument setpoints. All parameters will continue to be monitored as currently required.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analyses. Therefore, the staff proposes to determine that the application for amendments involves no significant hazards considerations.

Local Public Document Room location: Athens Public Library, South Street, Athens, Alabama 35611.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, E11 B33, Knoxville, Tennessee 37902.

NRC Assistant Director: Suzanne Black

Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of amendment requests: March 27, 1989 (TS 88-27)

Description of amendment requests: The Tennessee Valley Authority (TVA) proposes to modify the Sequoyah Nuclear Plant (SQN) Units 1 and 2 Technical Specifications (TS). The proposed changes are to revise surveillance requirement (SR) 4.6.5.6.a.1 by increasing the base current value from 28 amperes to 32 amperes for the containment air return fan (CARF) motors.

Basis for proposed no significant hazards consideration determination: TVA provided the following information in its application to support the proposed changes:

Review of the past performance data of Surveillance Instruction (SI) 28, "Containment Air Return Fans," has shown that the amperage window of 28 277.5 amperes is too low. Amperage values obtained have consistently remained on the upper end of the allowed tolerance value and thereby indicate the need for an increase in the base amperage value. This surveillance amperage value should be increased to a value of 32 277.5 amperes to establish a new data baseline that will be used to verify the motor operability of the CARFs.

The Commission has provided Standards for determining whether a significant hazards determination exists as stated in 10 CFR 50.92(c). 10 CFR 50.91 requires that at the time a licensee requests an amendment, it must provide to the Commission its analyses, using the standards in Section 50.92, on the issue of no significant hazards consideration. Therefore, in accordance with 10 CFR 50.91 and 10 CFR 50.92, the licensee has performed and provided the following analysis:

TVA has evaluated the proposed technical specification change and has determined that it does not represent a significant hazards consideration based on criteria established in 10 CFR 50.92(c). Operation of SQN in accordance with the proposed amendment will not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated. As stated in the SQN FSAR, section 6.6.1, the primary purpose of the CARFs is to enhance the ice condenser and containment spray heat removal operation by circulating air from the upper compartment to the lower compartment, through the ice condenser, and then back to the upper compartment. The secondary purpose of the system is to limit hydrogen concentration in potentially stagnant regions by ensuring a flow of air to these regions. Therefore, increasing the base amperage from 28 to 32 amperes will not affect the system's function as previously evaluated. This change will enhance the ability to verify the CARF motor operability by establishing a more realistic data baseline as a result of actual plant test data. Therefore, the proposed change does not involve an increase in the probability or consequences of an accident previously evaluated because the system's operation and function are not affected.

(2) Create the possibility of a new or different kind of accident from any previously analyzed. Increasing the base amperage in the amperage window of the CARF motors will not create the possibility of

a new or different kind of accident than previously analyzed. System operation and function are not affected by this change. As previously stated, this change is being made to establish a more realistic data baseline for future surveillance testing. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously analyzed because the system's operation and function are not affected by the change.

(3) Involve a significant reduction in a margin of safety. This change will not involve a significant reduction in a safety margin of the CARF system. The amperage window is solely used to verify CARF motor operability and to allow for variations in board voltage due to changes in board loading. Neither system operation nor function will be affected by this change because it only establishes a more realistic data baseline for motor reliability. Therefore, no reduction in a margin of safety is involved by the proposed change because the system's operation and function are not affected by the change.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Therefore, the staff proposes to determine that the application for amendments involves no significant hazards considerations.

Local Public Document Room location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, E11 B33, Knoxville, Tennessee 37902.

NRC Assistant Director: Suzanne Black

Toledo Edison Company and The Cleveland Electric Illuminating Company, Docket No. 50-346, Davis-Besse Nuclear Power Station, Unit No. 1, Ottawa County, Ohio

Date of application for amendment: August 6, 1987

Description of amendment request: The amendment would delete in its entirety Appendix B to the Operating License, "Environmental Technical Specifications." The amendment would also delete that portion of the License Condition 2.F.(1) which referred to the Environmental Technical Specifications. Appendix B originally consisted of two types of specifications when issued, one related to radiological effluents and the other related to non-radiological environmental matters. Prior to this request, the NRC staff issued Amendment 86 (July 2, 1985) which incorporated more comprehensive Technical Specifications on radiological effluents into Appendix A of the Operating License and deleted these requirements from Appendix B of the Operating License.

The second type of specifications originally contained in Appendix B involve monitoring and reporting requirements associated with nonradiological environmental matters such as aquatic and land management. Aquatic monitoring requirements were previously deleted from Appendix B by License Amendment 55 (March 11, 1983).

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists in 10 CFR 50.92. A proposed amendment to an operating license involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

With respect to each of these three criteria, the licensee has provided an analysis of no significant hazards consideration in its request for a license amendment as follows:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change is administrative and will not affect the probability or consequences of an accident previously evaluated. Further, since the radiological effluent monitoring requirements have been incorporated into Appendix A, the ability to monitor, detect and control radioactive discharges from the plant remains unchanged.

(2) Create the possibility of a new or different kind of accident from any previously evaluated.

The proposed change does not affect any of the assumptions used in previous accident evaluations; all accidents continue to be bounded by previous analysis. Accordingly, deletion of these environmental technical specifications which have been previously satisfied will not introduce the possibility of any new or different kind of accident. Further, the plant will continue to operate in the same manner as previously, thereby ensuring that no new or different kind of accident can occur.

(3) Involve a significant reduction in a margin of safety.

The proposed deletion of Appendix B and the deletion of that portion of License Condition 2.F.(1) which refers to Appendix B involves no reduction in a margin of safety since the requirements for monitoring, detection and control of radiological effluents continues unchanged in Appendix A.

Based on the above considerations, the staff proposes to determine that the proposed deletion of Appendix B from the Operating License and the deletion of a portion of License Condition 2.F.(1), does not involve a significant hazards consideration.

Local Public Document Room location: University of Toledo Library, Documents Department, 2801 Bancroft Avenue, Toledo, Ohio 43606.

Attorney for licensee: Gerald Charnoff, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: John N. Hannon

Washington Public Power Supply System, Docket No. 50-397, Nuclear Project No. 2, Benton County, Washington

Date of amendment request: February 10, 1987 and March 31, 1989.

Description of amendment request: License Condition 2.C.(14) pertaining to the WNP-2 fire protection requirements would be modified to incorporate a standard fire protection license condition recommended by the staff in Generic Letter 86-10. The following Technical Specifications governing fire protection are proposed to be removed:

3/4.3.7.9, "Fire Detection Instrumentation"

3/4.7.6, "Fire Suppression Systems"

3/4.7.7, "Fire Related Asseblies"

6.2.2.e (Fire Brigade staffing requirements)

Related bases sections would be modified and the index would be revised to delete the sections removed.

Generic Letters 86-10, dated April 24, 1986, and 88-12, dated August 2, 1988, from the NRC provided guidance to licensees concerning removal of the fire protection technical specifications. The licensee's proposed amendment follows these Generic Letters.

Basis for Proposed No Significant Hazards Consideration Determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with a proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

The proposed revisions to the license condition and to the technical specifications are in accordance with the guidance provided in Generic Letter 86-10 for licensees requesting removal of fire protection technical specifications. The incorporation of the NRC-approved

fire protection program, and the former technical specification requirements by reference to the procedures implementing these requirements, into the Final Safety Analysis Report (FSAR) and the use of the standard license condition on fire protection will ensure that the fire protection program, including the systems, the administrative and technical controls, the organization, and the other plant features associated with fire protection will be on a consistent status with other plant features described in the FSAR.

The provisions of 10 CFR 50.59 would then apply to changes the licensee considers making in the fire protection program. In this context the determination of the involvement of an unreviewed safety question defined in 10 CFR 50.59(a)(2) would be made based on the "accident...previously evaluated" being the postulated fire in the fire hazards analysis for the area affected by the change. Hence the proposed license condition would establish an adequate basis for defining the scope of changes to the fire protection program which can be made without prior Commission approval, i.e., without introduction of an unreviewed safety question.

Neither the proposed license condition nor the removal of the existing technical specification requirements on fire protection creates the possibility of a new or different kind of accident from those previously evaluated. They also do not involve a significant reduction in the margin of safety since the license condition does not alter the requirement that an evaluation be performed for the identification of an unreviewed safety question for each proposed change in the fire protection protection program. Consequently, the proposed license condition for the removal of the fire protection requirements do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The Administrative Controls section of the technical specifications (Section 6) includes a requirement for fire protection program implementation procedures. This section will also be modified as necessary to define the roles of the Plant Operations Committee and the Corporate Nuclear Safety Review Board in reviewing the fire protection program and implementing procedures. The fire protection program will be subject to administrative controls consistent with other programs addressed by license conditions. These changes are themselves administrative in nature and do not impact the operation of the facility in a manner that involves significant hazards considerations.

The proposed amendment includes the removal of fire protection technical specifications in four areas: (1) fire detection systems, (2) fire suppression systems, (3) fire-rated assemblies (fire barriers), and (4) fire brigade staffing requirements. While it is recognized that a comprehensive fire protection program is essential to plant safety, many details of this program that are currently addressed in technical specifications can be modified without affecting nuclear safety. These requirements being removed from the technical specifications have been incorporated into the fire protection implementing procedures. The administrative controls section of the technical specifications ensure that licensee initiated changes to these requirements will receive careful review by qualified individuals.

The transfer of these items from the technical specifications to a separate fire protection program is believed to be an administrative action which does not impact the operation of the facility in a manner that involves significant hazards considerations.

Based on the above considerations the Commission proposes to determine that the requested changes to the WNP-2 License and Technical Specifications involve no significant hazards considerations.

Local Public Document Room location: Richland City Library, Swift and Northgate Streets, Richland, Washington 99352.

Attorneys for licensees: Nicholas S. Reynolds, Esq., Bishop, Cook, Purcell and Reynolds, 1400 L Street, NW., Washington, DC 20005-3502 and G.E. Doupe, Esq., Washington Public Power Supply System, P.O. Box 968, 3000 George Washington Way, Richland, Washington 99352.

NRC Project Director: George W. Knighton

Washington Public Power Supply System, Docket No. 50-397, Nuclear Project No. 2, Benton County, Washington

Date of amendment request: February 2, 1989

Description of amendment request: Technical Specification Section 3.0.4, "Limiting Condition for Operation," would be revised to allow mode changes when in an action statement that allows continued operation for an unlimited period of time. Currently such mode changes are prohibited.

Technical Specification 4.0.3 would be changed to delay compliance with an action statement for up to 24 hours in order to allow performance of a missed surveillance. Currently the plant must be shutdown if a surveillance interval is inadvertently surpassed.

Technical Specification 4.0.4 would be changed to allow the plant to proceed through or to required operational modes to comply with Action requirements even though applicable surveillance requirements may not have been performed. Currently Technical Specifications 3.0.4 and 4.0.3 are in conflict when such a procession is necessary to come out of an Action statement. The proposed revision would address the existing conflict.

The amendment would remove the statement, "..the provisions of Specification 3.0.4 are not applicable," from the various Chapter 3 Limiting Conditions for Operation which do not require the shutdown since the proposed revision 3.0.4 makes such wording superfluous. The licensee would retain the existing exceptions to 3.0.4 in those specifications that do require a plant shutdown.

Bases associated with these specifications would also be revised.

Basis for Proposed No Significant Hazards Consideration Determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with a proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

The changes requested are to specifications 3.0.4, 4.0.3 and 4.0.4 and are as recommended by the staff in Generic Letter 87-09.

The Supply System has evaluated this amendment request per 10 CFR 50.59 and 50.92 and determined that it does not represent an unreviewed safety question or a significant hazard. The proposed amendment does not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated because:

The change to Specification 3.0.4 will allow mode changes while the plant is in an Action statement that does not prohibit power operation. Exception to 3.0.4 has already been taken in many of the individual Action statements. Incorporating the proposed change into 3.0.4 will ensure that exceptions will be consistently applied when justified.

Deletion of the individual exceptions will have no impact upon the requirements in the Specifications since the exception to 3.0.4 will now be contained within 3.0.4.

The change to Specification 4.0.3 will allow delay in the application of Action requirements for up to 24 hours when a surveillance has been missed. Because surveillances normally verify system or component operability, as opposed to discovering inoperability, the allowance of an additional 24 hours to demonstrate operability is not significant. Without the 24 hour delay it is likely that a missed surveillance would force a plant shutdown.

Avoidance of this transient state and associated thermal cycling is beneficial and far outweighs any incremental uncertainties regarding system operability associated with the additional 24 hours in which to perform a missed surveillance.

The change to Specification 4.0.4 will not result in a change to the design or operation of the facility and is administrative in nature. For the reasons cited above, this change will not result in an increase in the probability or consequences of an accident.

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated because:

The change to 3.0.4 will allow the plant to continue operation in an Action statement that already allows continued operation. As such, no new modes of operation are being introduced by this change.

The change to 4.0.3 would allow the plant to continue operation for an additional 24 hours after discovery of a missed surveillance. Missing a surveillance does not mean that a component or system is inoperable. In most cases surveillances demonstrate the continued operability of the components and systems. All systems and components currently required to be verified operable by Technical Specification requirements will continue to be maintained operable. This change will not affect the design of the plant and will not allow the plant to be operated outside the currently allowed modes of operation.

The change to 4.0.4 will alleviate a contradiction within the specifications. This change is administrative and does not affect any of the accident analyses.

(3) Involve a significant reduction in a margin of safety because:

The change to Specification 3.0.4 will allow mode changes in Action statement that do not require plant shutdown. Exceptions to 3.0.4 are already contained within many of the applicable Action statements. Incorporating the exceptions within 3.0.4 will ensure their consistent application.

The change to 4.0.3 will allow up to 24 hours to perform a missed surveillance. In most cases this will eliminate the need for a plant shutdown. The overall effect is a net gain in plant safety due to avoidance of unnecessary shutdowns due to missed surveillances.

The change to 4.0.4 is administrative in nature and therefore does not affect any margin of safety.

Based on the above considerations the Commission proposes to determine that the requested changes to the WNP-2 License and Technical Specifications involve no significant hazards consideration.

Local Public Document Room location: Richland City Library, Swift and Northgate Streets, Richland, Washington 99352.

Attorneys for licensees: Nicholas S. Reynolds, Esq., Bishop, Cook, Purcell and Reynolds, 1400 L Street, NW., Washington, DC 20005-3502 and G.E. Doupe, Esq., Washington Public Power Supply System, P.O. Box 968, 3000 George Washington Way, Richland, Washington 99352.

NRC Project Director: George W. Knighton

Washington Public Power Supply System, Docket No. 50-397, Nuclear Project No. 2, Benton County, Washington

Date of amendment request: March 24, 1989

Description of amendment request: License condition 2.C.(16), Attachment 2, Item 3(b), Wide Range Neutron Flux Monitor, requires the licensee to implement the requirements of Regulatory Guide 1.97, Rev. 2 for flux monitoring prior to startup following the fourth refueling outage.

Basis for Proposed No Significant Hazards Consideration Determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with a proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

In making this request the licensee has noted that significant progress has been made toward meeting the requirement prior to startup following the fourth outage. The fourth refueling outage is now scheduled to begin on April 28, 1989. This amendment application has been submitted to allow restart in the event that requirements of the Regulatory Guide are not met by the end of the outage.

The Supply System has reviewed the requested amendment per 10 CFR 50.59 and 50.92 and has determined that no unreviewed safety questions or significant hazards will result. Further, the licensee stated that the proposed change will not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated because the existing instrumentation consists of four redundant safety-related channels. Additionally, there are unrelated systems in place to provide operators with sufficient data to assess reactor conditions (e.g., control rod position monitors, reactor vessel level and pressure monitors) in the unlikely event of an accident condition prior to replacement. (2) Create the possibility of a new or different kind of accident because no function of the flux monitor system is being changed; therefore, no new or different kind of accident is conceivable. (3) Involve a significant reduction in a safety margin as adequate instrumentation is provided to allow the operator to assess reactor conditions without this monitor in the unlikely event of an accident condition that could cause the monitor currently in place to fail prior to replacement.

Based on the above considerations the Commission proposes to determine that the requested changes to the WNP-2 Technical Specifications involve no significant hazards considerations.

Local Public Document Room location: Richland City Library, Swift and Northgate Streets, Richland, Washington 99352.

Attorneys for licensees: Nicholas S. Reynolds, Esq., Bishop, Cook, Purcell and Reynolds, 1400 L Street, NW., Washington, DC 20005-3502 and G.E. Doupe, Esq., Washington Public Power Supply System, P.O. Box 968, 3000 George Washington Way, Richland, Washington 99352.

NRC Project Director: George W. Knighton

PREVIOUSLY PUBLISHED NOTICES OF CONSIDERATION OF ISSUANCE OF AMENDMENTS TO OPERATING LICENSES AND PROPOSED NO SIGNIFICANT HAZARDS CONSIDERATION DETERMINATION AND OPPORTUNITY FOR HEARING

The following notices were previously published as separate individual

notices. The notice content was the same as above. They were published as individual notices either because time did not allow the Commission to wait for this biweekly notice or because the action involved exigent circumstances. They are repeated here because the biweekly notice lists all amendments issued or proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the **Federal Register** on the day and page cited. This notice does not extend the notice period of the original notice.

Philadelphia Electric Company, Docket No. 50-352, Limerick Generating Station, Unit 1, Montgomery County, Pennsylvania

Date of amendment request: March 23, 1989

Brief description of amendment request: This amendment modifies the Technical Specifications to conform to the staff's technical position PSB-1, "Adequacy of Station Electric Distribution System Voltages."

Date of publication of individual notice in **Federal Register:** March 29, 1989 (54 FR 12978)

Expiration date of individual notice: Comment period expired April 13, 1989; Notice period expires April 28, 1989.

Local Public Document Room location: Pottstown Public Library, 500 High Street, Pottstown, Pennsylvania 19464.

Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, Docket Nos. 50-277 and 50-278, Peach Bottom Atomic Power Station, Unit Nos. 2 and 3, York County, Pennsylvania

Date of amendment request: March 10, 1989

Brief description of amendment request: This amendment would modify the Technical Specifications to reflect removal of the requirement for calibration of the Source Range Monitor (SRM) and Intermediate Range Monitor (IRM) Detectors Not in Startup Position within 24 hours before each startup or controlled shutdown on the basis that the currently existing functional test and preventive maintenance program calibration test is adequate for this instrumentation.

Date of publication of individual notice in **Federal Register:** March 21, 1989 (54 FR 11599)

Expiration date of individual notice: April 20, 1989

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania 17126.

Wisconsin Electric Power Company, Docket Nos. 50-266 and 50-301, Point Beach Nuclear Plant, Unit Nos. 1 and 2, Town of Two Creeks, Manitowoc County, Wisconsin

Date of application for amendments: March 23, 1989

Brief description of amendments request: The amendments would revise provisions of the Point Beach Nuclear Plant, Unit Nos. 1 and 2, Technical Specifications relating to the permissible enrichments for storage of fuel assemblies in the new fuel storage vault and spent fuel storage pool.

Date of individual notice in **Federal Register:** March 31, 1989 (54 FR 13261)

Expiration date of individual notice: Comment period expires April 14, 1989. Notice period expires May 1, 1989.

Local Public Document Room location: Joseph P. Mann Library, 1516 Sixteenth Street, Two Rivers, Wisconsin.

NOTICE OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing in connection with these actions was published in the **Federal Register** as indicated. No request for a hearing or petition for leave to intervene was filed following this notice.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendments, (2) the amendments, and (3) the Commission's related letters, Safety Evaluations and/or Environmental Assessments as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document rooms for the particular facilities involved. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects.

Arkansas Power & Light Company, Docket No. 50-313, Arkansas Nuclear One, Unit 1, Pope County, Arkansas

Date of amendment request: June 30, 1988

Brief description of amendment: The amendment modified the Technical Specifications by adding surveillance requirements for the automatic actuation of the shunt trip attachments of the reactor trip breakers, and for the silicon controlled rectifier (SCR) trip relays used to interrupt power to the control rods, as required by Generic Letter (GL) 83-28, Items 4.3 and 4.4, and GL 85-10.

Date of issuance: March 10, 1989

Effective date: March 10, 1989

Amendment No.: 117

Facility Operating License No. DPR-51. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** September 21, 1988 (53 FR 36668) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 10, 1989.

No significant hazards consideration comments received: No.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801

Baltimore Gas and Electric Company, Docket No. 50-318, Calvert Cliffs Nuclear Power Plant, Unit No. 2, Calvert County, Maryland

Date of application for amendment: October 14, 1988 as supplemented February 17, 1989.

Brief description of amendment: This amendment provides a temporary, one-time extension, of up to 54 days, to the surveillance interval, required by TS Surveillance (TS) Requirement 4.7.8.1.c,

for the performance of functional tests on a representative sample of 10% of each individual type of snubber.

This temporary change shall expire at 11:59 p.m. on May 17, 1989 or upon reaching 199.9° F average reactor coolant system (RCS) temperature during initial RCS heatup following the Unit 2 Cycle 9 refueling outage, whichever comes first. At that point, the specified maximum surveillance interval shall revert to the normally required 18-month period.

In addition, this amendment corrects nomenclature errors in TS 3/4.7.8, "Snubbers," and deletes an obsolete note in TS 4.7.8.1 concerning the date steam generator snubbers were first required to be tested.

Date of issuance: March 24, 1989
Effective date: March 24, 1989
Amendment No.: 119
Facility Operating License No. DPR-69. Amendment revised the Technical Specifications.
Date of initial notice in **Federal Register:** February 17, 1989 (54 FR 7309) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 24, 1989
No significant hazards consideration comments received: No
Local Public Document Room location: Calvert County Library, Prince Frederick, Maryland.
NRC Project Director: Robert A. Capra

Carolina Power & Light Company, et al., Docket Nos. 50-325 and 50-324, Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County, North Carolina

Date of application for amendments: October 28, 1988, as supplemented March 6, 1989
Description of amendments: The amendment revises the Technical Specifications by modifying footnote ***, in Table 1.2, "Operational Conditions." The revised footnote allows the reactor mode switch to be placed in the Refuel position while a single control rod is being moved, as opposed to only when being recoupled, provided the one-rod-out interlock is operable.
Date of issuance: March 14, 1989
Effective date: March 14, 1989
Amendment Nos.: 125 and 155
Facility Operating License Nos. DPR-71 and DPR-62. Amendments revise the Technical Specifications.
Date of initial notice in **Federal Register:** January 11, 1989 (54 FR 1019) Additional information of a clarifying nature was submitted by the licensee by letter dated March 6, 1989. The additional information did not alter the action noticed and did not effect the staff's proposed no significant hazards consideration determination. The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 14, 1989.
No significant hazards consideration comments received: No.
Local Public Document Room location: University of North Carolina at Wilmington, William Madison Randall Library, 601 S. College Road, Wilmington, North Carolina 28403-3297.

Commonwealth Edison Company, Docket Nos. 50-454 and 50-455, Byron Station, Units 1 and 2, Ogle County, Illinois; Docket Nos. 50-456 and 50-457, Braidwood Station, Unit Nos. 1 and 2, Will County, Illinois

Date of application for amendments: December 12, 1988
Brief description of amendments: These amendments modify Technical Specifications having cycle-specific Fxy limits by replacing the values of those limits with a reference to the Operating Limits Report for the value of those limits.
Date of issuance: March 28, 1989
Effective date: March 28, 1989
Amendment Nos.: 26 for Byron, 15 for Braidwood
Facility Operating License Nos. NPF-37, NPF-66, NPF-72, and NPF-75 The amendments revised the Technical Specification.
Date of initial notice in **Federal Register:** February 22, 1989 (54 FR 7626) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 28, 1989.
No significant hazards consideration comments received: No.
Local Public Document Room location: For Byron Station, Rockford Public Library, 215 N. Wyman Street, Rockford, Illinois 61101; for Braidwood Station, the Wilmington Township Public Library, 201 S. Kankakee Street, Wilmington, Illinois 60481.

Duke Power Company, Docket No. 50-370, McGuire Nuclear Station, Unit 2, Mecklenburg County, North Carolina

Date of application for amendment: December 7, 1985
Brief description of amendment: The amendment deleted license condition 2.C(12) and its related Table 1 and replaced it with a condition which was a part of Table 1.
Date of issuance: March 28, 1989
Effective date: March 28, 1989
Amendment No.: 75
Facility Operating License No. NPF-17: Amendment revised the Operating License
Date of initial notice in **Federal Register:** February 22, 1989 (54 FR 7632) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 28, 1989.
No significant hazards consideration comments received: No.
Local Public Document Room location: Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28223

Florida Power and Light Company, Docket Nos. 50-250 and 50-251, Turkey Point Plant Units 3 and 4, Dade County, Florida

Date of application for amendments: September 12, 1988
Brief description of amendments: These amendments modify the Technical Specifications to permit the holding of a Senior Reactor Operator's license on a pressurized water reactor other than Turkey Point, by the Operations Superintendent, to serve as an acceptable qualification for that position.
Date of issuance: March 27, 1989
Effective date: March 27, 1989
Amendment Nos. 135 and 129
Facility Operating Licenses Nos. DPR-31 and DPR-41: Amendments revised the Technical Specifications.
Date of initial notice in **Federal Register:** November 2, 1988 (53 FR 44250). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 27, 1989.
No significant hazards consideration comments received: No
Local Public Document Room location: Environmental and Urban Affairs Library, Florida International University, Miami, Florida 33199.

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50-321 and 50-366, Edwin I. Hatch Nuclear Plant, Units 1 and 2, Appling County, Georgia

Date of application for amendments: December 2 and 22, 1986, May 31, August 8, and December 14, 1988
Brief description of amendments: The amendments modified paragraphs 2.C.4 of the Unit 1 license and 2.D. of the Unit 2 license to require compliance with the amended Physical Security Plan. This Plan was amended to conform to the requirements of 10 CFR 73.55. Consistent with the provisions of 10 CFR 73.55, search requirements must be implemented within 60 days and miscellaneous amendments within 180 days from the effective date of these amendments.

Date of issuance: March 28, 1989
Effective date: March 28, 1989
Amendment Nos.: 161 and 98
Facility Operating License Nos. DPR-57 and NPF-5. Amendments revised the Operating Licenses.
Date of initial notice in Federal Register: February 22, 1989 (54 FR 7635) The Commission's related evaluation of the amendments is contained in a letter to Georgia Power Company dated March 28, 1989 and a Safeguards Evaluation report dated March 28, 1989.
No significant hazards consideration comments received: No.
Local Public Document Room location: Appling County Public Library, 301 City Hall Drive, Baxley, Georgia 31513.

Houston Lighting & Power Company, City Public Service Board of San Antonio, Central Power and Light Company, City of Austin, Texas, Docket No. 50-498, South Texas Project, Unit 1, Matagorda County, Texas

Date of amendment request: January 17, 1989
Brief description of amendment: The amendment modified the Technical Specifications (TS) by incorporating the combined TS for Units 1 and 2 issued with the full power license for Unit 2 into the Unit 1 license. The changes were administrative in nature only since the two units are identical.
Date of issuance: March 28, 1989
Effective date: March 28, 1989
Amendment No.: 5
Facility Operating License No. NPF-76. Amendment revised the Technical Specifications.
Date of initial notice in Federal Register: February 2, 1989 (54 FR 5292) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 28, 1989.
No significant hazards consideration comments received: No.
Local Public Document Rooms Location: Wharton County Junior College, J. M. Hodges Learning Center, 911 Boling Highway, Wharton, Texas 77488 and Austin Public Library, 810 Guadalupe Street, Austin, Texas 78701

Houston Lighting & Power Company, City Public Service Board of San Antonio, Central Power and Light Company, City of Austin, Texas, Docket No. 50-498, South Texas Project, Unit 1, Matagorda County, Texas

Date of amendment request: January 25, 1989
Brief description of amendment: The amendment addressed one of the requests of the amendment application by modifying the Technical Specification value of the fuel handling building exhaust air subsystem electric heaters to reference operation at 38 kW instead of 50 kW. The other requests are under staff review.
Date of issuance: March 28, 1989
Effective date: March 28, 1989. The amendment will be fully implemented six weeks after date of issuance.
Amendment No.: 6
Facility Operating License No. NPF-76. Amendment revised the Technical Specifications.
Date of initial notice in Federal Register: February 14, 1989 (54 FR 6789) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 28, 1989.
No significant hazards consideration comments received: No.
Local Public Document Rooms Location: Wharton County Junior College, J. M. Hodges Learning Center, 911 Boling Highway, Wharton, Texas 77488 and Austin Public Library, 810 Guadalupe Street, Austin, Texas 78701

Louisiana Power and Light Company, Docket No. 50-382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: October 31, 1988
Brief description of amendment: The amendment revised the Technical Specifications for containment penetration circuit breaker testing by clarifying the test requirements for integrated functional testing and by adding the surveillance requirements to Table 3.8-1.
Date of issuance: March 23, 1989
Effective date: March 23, 1989
Amendment No.: 51
Facility Operating License No. NPF-38. Amendment revised the Technical Specifications.
Date of initial notice in Federal Register: November 30, 1988 (53 FR 48332). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 23, 1989.
No significant hazards consideration comments received: No.
Local Public Document Room location: University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans, Louisiana 70122.

Louisiana Power and Light Company, Docket No. 50-382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: December 23, 1988
Brief description of amendment: The amendment revised the Technical Specifications to show the new location for one of the backup seismic monitors.
Date of issuance: March 23, 1989
Effective date: March 23, 1989
Amendment No.: 52
Facility Operating License No. NPF-38. Amendment revised the Technical Specifications.
Date of initial notice in Federal Register: February 8, 1989 (54 FR 6195). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 23, 1989.
No significant hazards consideration comments received: No.
Local Public Document Room location: University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans, Louisiana 70122.

Louisiana Power and Light Company, Docket No. 50-382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: December 23, 1988
Brief description of amendment: The amendment revised the Technical Specifications to correct the terminology of control room isolation for toxic gas protection action.
Date of issuance: March 23, 1989
Effective date: March 23, 1989
Amendment No.: 53
Facility Operating License No. NPF-38. Amendment revised the Technical Specifications.
Date of initial notice in Federal Register: February 1, 1989 (54 FR 5163). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 23, 1989.
No significant hazards consideration comments received: No.
Local Public Document Room location: University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans, Louisiana 70122.

Louisiana Power and Light Company, Docket No. 50-382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: December 6, 1988 as supplemented January 5, 1989
Brief description of amendment: The amendment revised the Technical Specifications by deleting requirements for overcurrent protection on disconnected motor-operated-valve actuator compartment-heater breakers from Table 3.8-1.
Date of issuance: March 27, 1989
Effective date: March 27, 1989
Amendment No.: 54
Facility Operating License No. NPF-38. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** January 11, 1989 (54 FR 1022) The January 5, 1989 submittal provided additional clarifying information and did not change the finding of the initial notice.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 27, 1989.

No significant hazards consideration comments received: No.

Local Public Document Room location: University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans, Louisiana 70122.

Mississippi Power & Light Company, System Energy Resources, Inc., South Mississippi Electric Power Association, Docket No. 50-416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of application for amendment: December 6, 1988, as supplemented December 30, 1988 and January 31, 1989.

Brief description of amendment: The amendment changes the Technical Specifications (TS) as required to support the fuel reload for Cycle 4. Changes are made to the Bases for Section 2.1, "Safety Limits," the TS and Bases for Section 3/4.2, "Power Distribution Limits," and TS for Section 5.3.1, "Fuel Assemblies."

Date of issuance: March 13, 1989

Effective date: March 13, 1989

Amendment No. 57

Facility Operating License No. NPF-29. This amendment revises the Technical Specifications.

Date of initial notice in **Federal Register:** The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 13, 1989

No significant hazards consideration comments received: No

Local Public Document Room location: Hinds Junior College, McLendon Library, Raymond, Mississippi 39154

Mississippi Power & Light Company, System Energy Resources, Inc., South Mississippi Electric Power Association, Docket No. 50-416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of application for amendment: September 23, 1988, as revised November 30, December 16 and December 21, 1988 and, as supplemented February 6, February 23, March 6 and March 8, 1989.

Brief description of amendment: The amendment changes the Technical Specifications (TS) by adding a plant service water radiation monitor in TS 3/4.3.7.1, "Radiation Monitoring Instrumentation," and by adding two valves in TS 3/4.8.4.2, "Morot Operated Valves Thermal Overload Protection." These TS changes are made to allow the use, during cold shutdown and refueling, of an alternate decay heat removal system (ADHRS) to be installed during the third refueling outage. In addition, footnotes are added to TS 3.4.9.2, TS 3.9.11.1 and TS 3.9.11.2 to limit the use of the ADHRS to the third refueling outage.

Date of issuance: March 27, 1989

Effective date: March 27, 1989

Amendment No. 59

Facility Operating License No. NPF-29. This amendment revises the Technical Specifications.

Date of initial notice in **Federal Register:** February 1, 1989 (54 FR 5166) The licensee's letters dated February 6 and 23, and March 6 and 8, 1989, provided supplemental information which did not affect the initial determination of no significant hazards considerations. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated

No significant hazards consideration comments received: No

Local Public Document Room location: Hinds Junior College, McLendon Library, Raymond, Mississippi 39154

Northeast Nuclear Energy Company, et al., Docket No. 50-423, Millstone Nuclear Power Station, Unit No. 3, New London County, Connecticut

Date of application for amendment: January 6, 1989 as supplemented by letter dated January 20, 1989.

Brief description of amendment: The amendment changes Technical Specification 4.7.10b, "Snubbers", to allow an approximate two month extension in the snubber visual inspection interval, to permit continued operation until the next refueling outage.

Date of issuance: March 27, 1989

Effective date: March 27, 1989

Amendment No.: 32

Facility Operating License No. NPF-49. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 8, 1989 (54 FR 6201) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 27, 1989

No significant hazards consideration comments received: No.

Local Public Document Room location: Waterford Public Library, 49 Rope Ferry Road, Waterford, Connecticut 06385.

Northern States Power Company, Docket No. 50-263, Monticello Nuclear Generating Plant, Wright County, Minnesota

Date of application for amendment: March 31, and October 10, 1986

Brief description of amendment: This amendment revises the plant Technical Specifications to reflect fire protection system changes made during the 1986 refueling outage, and to reduce the number of operating shift members required for safe shutdown of the reactor from outside the control room for fire protection purposes. The changes related to fire protection system modification and/or addition involve: (1) the installation of an Alternate Shutdown Panel outside the control room; (2) the addition of a feedwater pump hatch sprinkler curtain to the fire protection sprinkler system; (3) changes in requirements for penetration fire barrier operability for protecting safe shutdown equipment during refueling outages; and (4) installation of additional fire detection and protection equipment in the reactor building.

Date of issuance: March 29, 1989

Effective date: March 29, 1989

Amendment No.: 61

Facility Operating License No. DPR-22. Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register:** May 21, 1986 (51 FR 18686) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 29, 1989.

No significant hazards consideration comments received: No.

Local Public Document Room location: Minneapolis Public Library, Technology and Science Department, 300 Nicollet Mall, Minneapolis, Minnesota 55401.

Northern States Power Company, Dockets Nos. 50-282 and 50-306, Prairie Island Nuclear Generating Plant, Units Nos. 1 and 2, Goodhue County, Minnesota

Date of application for amendments: July 18, 1988 as supplemented September 15, 1988 and March 10, 1989.

Brief description of amendments: The amendments delete the specifications 2.3.A.3(c) and table TS 3.5-2 item 18 dealing with the reactor trip setpoint initiated low steam generator water level conclusion with steam/feedwater mismatch flow and low feedwater flow.

Date of issuance: April 3, 1989

Effective date: April 3, 1989

Amendment Nos.: 87 and 80

Facility Operating Licenses Nos. DPR-42 and DPR-60. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 8, 1989 (54 FR 6201) Since the date of the initial notice, the licensee provided supplemental information. This information clarified the original submittal and had no impact on the original no significant hazards consideration determination, and therefore did not warrant renoticing.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 3, 1989.

No significant hazards consideration comments received: No.

Local Public Document Room location: Minneapolis Public Library, Technology and Science Department, 300 Nicollet Mall, Minneapolis, Minnesota 55401.

NRC Project Director: Theodore R. Quay, Acting

Public Service Company of Colorado, Docket No. 50-267, Fort St. Vrain Nuclear Generating Station, Platteville, Colorado

Date of amendment request: October 14, 1988

Brief description of amendment: Changes certain portions of Section 7, Administrative controls.

Date of issuance: March 31, 1989

Effective date: March 31, 1989

Amendment No.: 69

Facility Operating License No. DPR-34. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** November 16, 1988 (53 FR 46155). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 31, 1989.

No significant hazards consideration comments received: No.

Local Public Document Room location: Greeley Public Library, City Complex Building, Greeley, Colorado

Generating Station, Salem County, New Jersey

Date of application for amendment: November 28, 1988

Brief description of amendment: Revised Technical Specifications Surveillance Requirement 4.8.1.1.2.f by updating the ASTM standard referenced in the specification for diesel fuel oil sampling.

Date of issuance: March 24, 1989

Effective date: March 24, 1989

Amendment No. 22

Facility Operating License No. NPF-57. This amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** December 30, 1988 (53 FR 53097). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 24, 1989.

No significant hazards consideration comments received: No

Local Public Document Room location: Pennsville Public Library, 190 S. Broadway, Pennsville, New Jersey 08070

Public Service Electric & Gas Company, Docket No. 50-354, Hope Creek Generating Station, Salem County, New Jersey

Date of application for amendment: September 28, 1988

Brief description of amendment: Increased the setpoints of the main steam line radiation monitors in the Technical Specifications.

Date of issuance: April 3, 1989

Effective date: April 3, 1989

Amendment No. 23

Facility Operating License No. NPF-57. This amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** November 16, 1988 (53 FR 46156). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 3, 1989.

No significant hazards consideration comments received: No

Local Public Document Room location: Pennsville Public Library, 190 S. Broadway, Pennsville, New Jersey 08070

Rochester Gas and Electric Corporation, Docket No. 50-244, R. E. Ginna Nuclear Power Plant, Wayne County, New York

Date of application for amendment: March 10, 1987 as supplemented on January 26, 1988, August 26, 1988 and January 17, 1989. The licensee submittals of August 26, 1988 and January 17, 1989 contained only minor corrections to the original submittal. It was, therefore determined unnecessary to renotice the application.

Brief description of amendment: This amendment changes Technical Specifications to comply with requirements of Generic Letter 85-09 for operation and testing of the reactor trip breakers.

Date of issuance: April 4, 1989

Effective date: 30 days from date of issuance

Amendment No.: 34

Facility Operating License No. DPR-18: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 23, 1988 (53 FR 9513). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 4, 1989.

No significant hazards consideration comments received: No.

Local Public Document Room location: Rochester Public Library, 115 South Avenue, Rochester, New York 14610.

Sacramento Municipal Utility District, Docket No. 50-312, Rancho Seco Nuclear Generating Station, Sacramento County, California

Date of application for amendment: December 30, 1988, as supplemented March 6, 1989

Brief description of amendment: The amendment authorized a one-time extension for certain local leakage rate tests (LLRT) of containment penetrations until the Cycle 8 refueling outage. This amendment also changed the surveillance period for the LLRT on the Decay Heat Removal suction piping.

Date of issuance: March 29, 1989

Effective date: March 29, 1989

Amendment No.: 102

Facility Operating License No. DPR-54: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 8, 1989 (54 FR 6209). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 29, 1989.

No significant hazards consideration comments received: No

Local Public Document Room location: Martin Luther King Regional Library, 7340 24th Street Bypass, Sacramento, California 95822

Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of application for amendments: December 6, 1988 (TS 88-29)

Brief description of amendments: The amendments modify the Sequoyah Nuclear Plant, Units 1 and 2 Technical Specifications. The changes delete surveillance requirement (SR) 4.4.3.2.3 for the pressurizer power-operated relief valves (PORVs) and associated block valves. This SR was not required and it duplicated other SR on these valves.

Date of issuance: March 9, 1989

Effective date: March 9, 1989

Amendment Nos.: 105, 94

Facility Operating Licenses Nos. DPR-77 and DPR-79. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** January 11, 1989 (54 FR 1025). The Commission's related evaluation of

the amendment is contained in a Safety Evaluation dated March 9, 1989.

No significant hazards consideration comments received: No

Local Public Document Room location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

Tennessee Valley Authority, Docket No. 50-328, Sequoyah Nuclear Plant, Unit 2, Hamilton County, Tennessee

Date of application for amendment: December 2, 1988 (TS 88-33)

Brief description of amendment: This amendment modifies the Sequoyah Nuclear Plant, Technical Specifications (TS). The changes (1) revise the upper head injection (UHI) accumulator level switch setpoint and tolerances of surveillance requirement (SR) 4.5.1.2.c.1 and (2) reduce the heat flux hot channel factor (FQ(z)) of limiting condition for operation (LCO) 3.2.2 and SR 4.2.2.2 from 2.237 to 2.15. The limit shall be 2.15 instead of 2.237 until an analysis in conformance with 10 CFR 50.46, using plant operating conditions and showing that a limit of 2.237 satisfies the requirements of 10 CFR 50.46(b), has been completed and submitted to NRC. This reduction in FQ(z) is a requirement of the Exemption from 10 CFR 50.46(a)(1) for operating Cycle 4 which was issued for Unit 2 on January 26, 1989. Similar amendments were approved for Unit 1 in the staff letters dated October 14, 1988 and January 23, 1989.

Date of issuance: March 10, 1988

Effective date: March 10, 1988

Amendment No.: 95

Facility Operating Licenses No. DPR-79. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** December 30, 1988 (53 FR 53102). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 10, 1988.

No significant hazards consideration comments received: No

Local Public Document Room location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of application for amendments: September 14, 1987 (TS 87-38)

Brief description of amendments: The amendments revise Table 3.3-5, Engineered Safety Features Response Times, of the Sequoyah Units 1 and 2 Technical Specifications. The changes add requirements to the response time test of the containment ventilation isolation function when initiated by a high containment pressure signal or a low pressurizer pressure signal.

Date of issuance: March 13, 1989

Effective date: March 13, 1989

Amendment Nos.: 106, 96

Facility Operating Licenses Nos. DPR-77 and DPR-79. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 10, 1988 (53 FR 30145). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 13, 1989.

No significant hazards consideration comments received: No

Local Public Document Room location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of application for amendments: April 17, 1987 (TS 87-05)

Brief description of amendments: These amendments amend the Sequoyah Nuclear Plant Units 1 and 2 Technical Specifications (TS) to revise parts of Section 5.0, Administrative Controls, of the Appendix B Environmental Technical Specifications. The changes (1) reflect the new title for the station superintendent and assign the responsibility for review and audit to the "licensee", instead of a specific TVA organization, (2) extend the audit time interval on the environmental monitoring program from annual to once per 18 months, (3) add additional requirements on the conduct of the audit and maintaining the results of the audit, and (4) delete the reference to a defunct section of the Code of Federal Regulations (CFR).

Date of issuance: March 15, 1989

Effective date: March 15, 1989

Amendment Nos.: 107, 97

Facility Operating Licenses Nos. DPR-77 and DPR-79. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** April 20, 1988 (53 FR 13020). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 15, 1989.

No significant hazards consideration comments received: No

Local Public Document Room location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of application for amendments: January 31, 1989 (TS 89-15) as clarified by letter dated March 9, 1989.

Brief description of amendments: The amendments modify Section 3.1.3, Movable Control Assemblies, of the Sequoyah, Units 1 and 2 Technical Specifications (TS). The changes revise the limiting conditions for operation (LCO) 3.1.3.4 and 3.1.3.5 and the Figure 3.1-1 to define the fully withdrawn condition for shutdown and control rod banks as a position within the interval of equal to or greater than 222 steps withdrawn and of equal to or less than 231 steps withdrawn. A section is added to the Bases of the TS to define the fully withdrawn condition for the shutdown and control rod banks. The supplemental information supplied in the March 9, 1989 letter did not change the substance of the Notice of Consideration of an amendment the staff issued in the **Federal Register** on January 22, 1989 on TVA's application for TS 89-15.

Date of issuance: March 28, 1989

Effective date: March 28, 1989

Amendment Nos.: 108, 98

Facility Operating Licenses Nos. DPR-77 and DPR-79. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 22, 1989 (54 FR 7645). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 28, 1989

No significant hazards consideration comments received: No

Local Public Document Room location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of application for amendments: September 14, 1987 (TS 87-39)

Brief description of amendments: The amendments correct minor discrepancies in the Sequoyah Nuclear Plant, Units 1 and 2 Technical Specifications (TS). The changes correct (1) an action statement of Table 3.3-1, Reactor Trip System Instrumentation, for Unit 2 only; (2) the instrumentation listed in Table 3.3-11, Fire Detection Instruments, for Unit 1 only; (3) the table notation of Table 4.11-2, Radioactive Gaseous Waste Monitoring, Sampling and Analysis Program, for both units;

and (4) the surveillance requirements 4.8.1.1.2.a.4 (both units) and 4.8.1.1.2.d.7 (Unit 1 only) for diesel generators. These changes are for both units or for only Unit 1 or Unit 2 as described above. These TS changes are to correct inconsistencies between TS requirements and to provide clarification of the intent of various TS specifications. None of the changes diminishes safety or increases the probability of an accident in any area of the plant.

Date of issuance: April 3, 1989

Effective date: April 3, 1989

Amendment Nos.: 109, 99

Facility Operating Licenses Nos. DPR-77 and DPR-79. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** December 16, 1987 (52 FR 47794). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 3, 1989

No significant hazards consideration comments received: No

Local Public Document Room location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of application for amendments: August 8, 1986 (TS 72)

Brief description of amendments: These amendments revise the surveillance requirements (SR) for the electrical equipment protective devices in the Sequoyah Nuclear Plant, Units 1 and 2 Technical Specifications (TS). The changes (1) delete the references to specific procedures in SR 4.8.3.1.a.1, 4.8.3.1.a.2, 4.8.3.1.a.3, and 4.8.3.1.b, (2) incorporate a footnote into SR 4.8.3.1.a.3 which allowed this SR to be suspended and (3) delete a resistance measurement test for fuses from SR 4.8.3.1.a.3. The other proposed changes in the application for SR 4.8.3.1.a.2 and 4.8.3.1.a.3 to delete testing of the instantaneous elements of the molded case circuit breakers were denied in the staff's letter dated November 7, 1986.

In the licensee's responses dated December 5 and 29, 1986, to the staff's denial of proposed changes to the TS on molded case circuit breakers, it discussed possible TS interpretations of the trip function testing of these to reduce the number of these breakers exposed to a potentially degrading test current. The licensee stated that within 6 months after restart of Sequoyah Unit 2, it would advise the staff of any intent to pursue this issue of TS interpretations. In its letter dated October 18, 1988, the licensee stated that it would not pursue this issue further.

Date of issuance: April 3, 1989

Effective date: April 3, 1989

Amendment Nos.: 110, 100

Facility Operating Licenses Nos. DPR-77 and DPR-79. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 27, 1986 (51 FR 30582). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 3, 1989

No significant hazards consideration comments received: No

Local Public Document Room location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of application for amendments: December 2, 1988 (TS 88-25)

Brief description of amendments: The amendments modify the Sequoyah Nuclear Plant, Units 1 and 2 Technical Specifications. The changes revise the action statements of limiting condition for operation 3.4.3.2 for the pressurizer power-operated relief valves (PORVs) and their associated block valves. The changes will require different actions based on the cause of valve inoperability. With one or more PORVs inoperable but capable of reactor coolant system (RCS) pressure control, power operation may continue, provided the associated block valve is closed (power does not have to be removed from the closed block valve). With one or more PORVs or block valves inoperable and incapable of RCS pressure control, reactor shutdown will be required.

Date of issuance: April 3, 1989

Effective date: April 3, 1989

Amendment Nos.: 111, 101

Facility Operating Licenses Nos. DPR-77 and DPR-79. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** December 30, 1988 (53 FR 53099). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 3, 1989

No significant hazards consideration comments received: No

Local Public Document Room location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

Vermont Yankee Nuclear Power Corporation, Docket No. 50-271, Vermont Yankee Nuclear Power Station, Vernon, Vermont

Date of application for amendment: August 26, 1986

Brief Description of amendment: The amendment changes Technical Specifications to reflect analog equipment replacement.

Date of issuance: March 29, 1989.

Effective date: 30 days from date of issuance.

Amendment No.: 110

Facility Operating License No. DPR-28: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** November 19, 1986 (51 FR 41870). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 29, 1989.

No significant hazards consideration comments received: No.

Local Public Document Room location: Brooks Memorial Library, 224 Main Street, Brattleboro, Vermont 05301.

Virginia Electric and Power Company, Docket Nos. 50-280 and 50-281, Surry Power Station, Unit Nos. 1 and 2, Surry County, Virginia.

Date of application for amendments: June 10, 1988

Brief description of amendments: The amendments deleted the requirements for and references to the Control Room Chlorine Monitoring System to reflect the removal from the site of all chlorine gas storage bottles.

Date of issuance: April 7, 1989

Effective date: April 7, 1989

Amendment Nos.: 124 and 124

Facility Operating License Nos. DPR-32 and DPR-37: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 13, 1988 (53 FR 26534). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 7, 1989.

No significant hazards consideration comments received: No

Local Public Document Room location: Swem Library, College of William and Mary, Williamsburg, Virginia 23185

Washington Public Power Supply System, Docket No. 50-397, Nuclear Project No. 2, Benton County, Washington

Date of application for amendment: December 2, 1988, as supplemented February 1, 1989.

Brief description of amendment: This amendment revises technical

specification surveillance requirement 4.8.1.1.2.e.7 regarding verification that automatic diesel generator trips are bypassed upon an accident signal. The amendment precludes the need for the temporary waiver of compliance with the technical specifications, issued February 2, 1989.

Date of issuance: March 30, 1989
Effective date: March 30, 1989
Amendment No.: 66
Facility Operating License No. NPF-21: Amendment changed the Technical Specifications.
Date of initial notice in **Federal Register:** February 24, 1989 (54 FR 8041). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 30, 1989.
No significant hazards consideration comments received: No.
Local Public Document Room location: Richland City Library, Swift and Northgate Streets, Richland, Washington 99352.

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

Date of amendment request: August 25, 1986 and supplemented on July 8, 1987
Brief description of amendment: The amendment changed Technical Specification paragraphs 3.8.4.1, 4.8.4.1 and deleted Table 3.8-1, "Containment Penetration Conductor Overcurrent Protective Devices." These changes were originally requested in the August 25, 1986 submittal. However, the NRC deferred plant specific consideration pending the NRC's staff resolution of the issue on a generic basis. The generic resolution has subsequently been accomplished and was discussed in the safety evaluation of this amendment.
Date of Issuance: March 23, 1989
Effective date: March 23, 1989
Amendment No.: 28
Facility Operating License No. NPF-42. Amendment revised the Technical Specifications.
Date of initial notice in **Federal Register:** September 24, 1986 (51 FR 33951). The July 8, 1987 submittal provided additional clarifying information and did not change the finding of the initial notice. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 23, 1989.
No significant hazards consideration comments received: No.
Local Public Document Room Location: Emporia State University, William Allen White Library, 1200 Commercial Street, Emporia, Kansas 66801 and Washburn University School of Law Library, Topeka, Kansas 66621

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

Date of amendment request: July 6, 1988
Brief description of amendment: This amendment revised Wolf Creek Generating Station (WCGS), Unit No. 1, Technical Specification Tables 3.3-3 and 4.3-2, which address the Engineered Safety Features Actuation System Instrumentation. The amendment removed the Mode 2 applicability requirements from Table 3.3-3 Functional Unit 6.g and Table 4.3-2 Functional Unit 6.g, "Trip of All Main Feedwater Pumps - Start Motor Driven Pumps".
Date of Issuance: April 3, 1989
Effective date: April 3, 1989
Amendment No.: 29
Facility Operating License No. NPF-42. Amendment revised the Technical Specifications.
Date of initial notice in **Federal Register:** February 22, 1989 (54 FR 7648). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 3, 1989.
No significant hazards consideration comments received: No.
Local Public Document Room Location: Emporia State University, William Allen White Library, 1200 Commercial Street, Emporia, Kansas 66801 and Washburn University School of Law Library, Topeka, Kansas 66621.

NOTICE OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE AND FINAL DETERMINATION OF NO SIGNIFICANT HAZARDS CONSIDERATION AND OPPORTUNITY FOR HEARING (EXIGENT OR EMERGENCY CIRCUMSTANCES)

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Because of exigent or emergency circumstances associated with the date the amendment was needed, there was not time for the Commission to publish, for public comment before issuance, its usual 30-day Notice of Consideration of Issuance of Amendment and Proposed No Significant Hazards Consideration Determination and Opportunity for a Hearing. For exigent circumstances, the Commission has either issued a **Federal Register** notice providing opportunity for public comment or has used local media to provide notice to the public in the area surrounding a licensee's facility of the licensee's application and of the Commission's proposed determination of no significant hazards consideration. The Commission has provided a reasonable opportunity for the public to comment, using its best efforts to make available to the public means of communication for the public to respond quickly, and in the case of telephone comments, the comments have been recorded or transcribed as appropriate and the licensee has been informed of the public comments.

In circumstances where failure to act in a timely way would have resulted, for example, in derating or shutdown of a nuclear power plant or in prevention of either resumption of operation or of increase in power output up to the plant's licensed power level, the Commission may not have had an opportunity to provide for public comment on its no significant hazards determination. In such case, the license amendment has been issued without opportunity for comment. If there has been some time for public comment but less than 30 days, the Commission may provide an opportunity for public comment. If comments have been requested, it is so stated. In either event, the State has been consulted by telephone whenever possible.

Under its regulations, the Commission may issue and make an amendment immediately effective, notwithstanding the pendency before it of a request for a hearing from any person, in advance of the holding and completion of any required hearing, where it has determined that no significant hazards consideration is involved.

The Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendment involves no significant hazards consideration. The basis for this determination is contained in the documents related to this action. Accordingly, the amendments have been issued and made effective as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant

to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the application for amendment, (2) the amendment to Facility Operating License, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment, as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room for the particular facility involved.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects.

The Commission is also offering an opportunity for a hearing with respect to the issuance of the amendments. By May 19, 1989, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

Since the Commission has made a final determination that the amendment involves no significant hazards consideration, if a hearing is requested, it will not stay the effectiveness of the amendment. Any hearing held would take place while the amendment is in effect.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 325-6000 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to (*Project Director*): petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

Arkansas Power & Light Company, Docket No. 50-313, Arkansas Nuclear One, Unit 1 (ANO-1), Pope County, Arkansas

Date of amendment request: March 23, 1989

Brief description of amendment: This amendment authorized the steady state power level for ANO-1 not to exceed 1284 megawatts thermal for a period not to exceed 50 effective full power days. This limitation in power level was required due to identification of a previously unanalyzed loss of coolant accident (LOCA).

Date of issuance: March 29, 1989

Effective date: March 29, 1989

Amendment No.: 119

Facility Operating License No. DPR-51. Amendment revised the operating license.

Public comments requested as to proposed no significant hazards consideration: No. The Commission's related evaluation of the amendment, finding of emergency circumstances, and final determination of no significant hazards consideration are contained in a Safety Evaluation dated March 29, 1989.

Attorney for licensee: Nicholas S. Reynolds, Esq. Bishop, Cook, Purcell and Reynolds, 1400 L Street, NW., Washington, DC 20005-3502

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801

NRC Project Director: Jose A. Calvo

Dated at Rockville, Maryland, this 13th day of April, 1989.

For the Nuclear Regulatory Commission

Steven A. Varga,

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

[Doc. 89-9200 Filed 4-18-89; 8:45 am]

BILLING CODE 7590-01-D

[Docket No. 50-353]

Philadelphia Electric Co.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption to Philadephia Electric Company, (the licensee), for operation of the Limerick Generating Station, Unit 2, located in Montgomery and Chester Counties, Pennsylvania.

Environmental Assessment

Identification of Proposed Action

The proposed exemption would extend the time required for submittal of a report indicating how reasonable assurance will be provided that funds will be available to decommission the facility.

The proposed action is in accordance with the licensee's application for exemption dated February 7, 1989.

10 CFR 50.33(k)(1) states, "Each application shall state: For an application for an operating license for a production or utilization facility, information in the form of a report, as described in § 50.75 of this part, indicating how reasonable assurance will be provided that funds will be available to decommission the facility." 10 CFR 50.75 establishes requirements for indicating how reasonable assurance will be provided that funds will be available for decommissioning. Each holder of an operating license is required to submit a decommissioning funding plan on or before July 28, 1990.

The Need for the Proposed Action

The funding report and certification are complex and require careful and deliberate financial planning. The Limerick Generating Plant is a two unit facility. The decommissioning report for Unit 1 is not required until July 26, 1990. The decommissioning plans for Units 1 and 2 need to be coordinated, since the units share common systems. The proposed exemption is needed to provide the time necessary to perform this planning properly and provide an accurate and informed report.

Environmental Impacts of the Proposal Action

The proposed exemption from 10 CFR 50.33(k)(1) will not increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released offsite, and there is no significant cumulative radiation exposure. Accordingly, the Commission concludes that this proposed action would result in no significant radiological environmental impact. Additionally, it does not affect non-radiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant non-radiological environmental impacts associated with the proposed exemption.

Alternative to the Proposed Action

Since the Commission concluded that there are no significant environmental effects that would result from the proposed action, any alternatives with equal or greater environmental impacts need not be evaluated.

The principal alternative would be to deny the requested amendment. This would not reduce environmental impacts of plant operation and would result in reduced operational flexibility.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statements for the Limerick Generating Station, Unit 2, dated April 1984.

Agencies and Persons Consulted

The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed exemption.

Based upon the foregoing environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the request for exemption dated February 7, 1989, which is available for public inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC and at the Pottstown Public Library, 500 High Street, Pottstown, Pennsylvania 19464.

Dated At Rockville, Maryland, this 31st day of March 1989.

For the Nuclear Regulatory Commission.

Walter Butler,

Director, Project Directive I-2, Division of Reactor Projects I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 89-9383 Filed 4-18-89; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-395]

South Carolina Electric & Gas Co.; South Carolina Public Service Authority; Correction

On March 20, 1989, a "Notice of Withdrawal of Application for Amendment to Facility Operating License" related to the V.C. Summer Nuclear Power Station, Unit 1, was published at 54 FR 11465. The cite given in that Notice for the original Notice published on February 24, 1984, was incorrect; it should have read 49 FR 7042.

For The Nuclear Regulatory Commission.

Elinor G. Adensam,

Director, Project Directorate II-1, Division of Reactor Projects I/II.

[FR Doc. 89-9382 Filed 4-18-89; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-315]

Indiana Michigan Power Co.; Consideration of Issuance of Amendment to Facility Operating License and Opportunity for Hearing

The United States Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-58 issued to the Indiana Michigan Power Company (the licensee), for operation of the Donald C. Cook Nuclear Plant, Unit No. 1, located in Berrien County, Michigan.

In accordance with the licensee's application for amendment dated October 14, and December 30, 1988, the proposed amendment to Technical Specifications will allow the D. C. Cook Unit 1 Nuclear Plant to operate with reduced temperatures and pressures to alleviate the stress corrosion cracking of the steam generator U-tubes of the type previously observed at D. C. Cook Unit 2.

Prior to issuance of the proposed license amendment, the Commission will have made finding required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By May 5, 1989, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating licenses and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for hearing and a petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the

Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition, and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene, which must include a list of the contentions that are sought to be litigated in the matter, and the basis for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendments under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–800–325–6000 (in Missouri 1–800–342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Theodore R. Quay: (petitioner's name and telephone number); (date petition was mailed); (plant name); and (publication date and page number of this Federal Register notice). A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

If a request for hearing is received, the Commission's staff may issue the amendment after it completes its technical review and prior to the completion of any required hearing if it publishes a further notice for public comment of its proposed finding of no significant hazards consideration in accordance with 10 CFR 50.91 and 50.92.

For further details with respect to this action, see the application for amendment dated October 14, and December 30, 1988 which is available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC 20555, and at the Maude Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Dated at Rockville, Maryland, this 13th day of April, 1989.

For the Nuclear Regulatory Commission.

John J. Stefano,

Acting Director, Project Directorate III–1, Division of Reactor Projects—III, IV, V & Special Projects.

[FR Doc. 89-9486 Filed 4-18-89; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

Privacy Act of 1974; Proposed Guidance Interpreting the Provisions of Public Law 100–503, the Computer Matching and Privacy Protection Act of 1988

AGENCY: Office of Management and Budget.

ACTION: Request for comments.

SUMMARY: The Office of Management and Budget (OMB) seeks public comments on the development of guidance interpreting the provisions of Pub. L. 100–503, the Computer Matching and Privacy Protection Act of 1988. The purpose of the guidance is to assist Federal, State and local agencies in implementing matching programs that are covered by the Act's provisions.

DATE: Comments from the public should be submitted no later than May 19, 1989.

ADDRESS: Send comments to Robert N. Veeder, Office of Information and Regulatory Affairs, Room 3235, New Executive Office Building, 725 17th Street, NW., Washington, DC 20503, telephone (202) 395–4814, Datafax (202)–395–3746.

SUPPLEMENTARY INFORMATION: Public Law 100–503 became law on October 18, 1988. It amends the Privacy Act of 1974 to add certain protections for the subjects of Privacy Act records whose records are used in automated matching programs. These protections are essentially threefold:

- *Procedural uniformity:* In carrying out matching programs, agencies are required to comply with the specific procedures the Act sets out;
- *Due process for subjects:* The Act gives individuals certain due process rights including advance notice that their records may be matched, notice of any adverse data found, and a chance to rebut this evidence;
- *Oversight of matching:* The Act establishes oversight mechanisms to ensure agency compliance. These include reports to OMB and Congress, publication of notices in the Federal Register, and the establishment of Data Integrity Boards at each agency engaging in matching to monitor the agency's matching activity.

The Act goes into effect 9 months after it became law, or July 19, 1989.

Public Law 100–503 requires OMB to "develop guidelines and regulations for the use of agencies in implementing the amendments made by this Act not later than 8 months after the date of enactment * * *," or June 19, 1989. The proposed guidance that follows is intended to meet this requirement and will, in final form, replace previous guidance OMB issued on May 2, 1982 (see 47 FR 21656).

One of the forces driving the Privacy Act of 1974 into existence was Congressional concern about the government's use of computers in which to keep records about individuals. The Act's preamble points to the possibility of automated recordkeeping "greatly magnifying" the potential harm to record subjects. In reality, in the era in which the Act was implemented, most Federal records were kept on paper and stored in file cabinets.

Now, however, due to the steady automation of government programs, automated records play a much more significant and more pervasive role in Federal recordkeeping. It is apparent that the structure of the Privacy Act is straining to accommodate this kind of recordkeeping. Public Law 100–503 is the first amendment of the Privacy Act to attempt to deal with the issue of automated records, albeit in only one area: computer matching. However, because it amends the Privacy Act without changing that Act's basic structure, there are real questions about how the Privacy Act's provisions, especially the definitions, should be interpreted.

Thus, OMB is especially interested in obtaining comments on the following points:

• *What constitutes a matching program within the meaning of the Computer Matching and Privacy Protection Act of 1988?* The Act defines a matching program as "any computerized comparison of [either] two or more automated systems of records or a system of records with non-Federal records." As the Guidelines interpret this definition, the following would be examples of covered matching programs for the reasons given:

—The Department of Education sends a tape of student loan defaultors to the Office of Personnel Management (OPM) which then performs an automated match against its Federal employee data base to identify and locate Federal employees who have defaulted on loans. This is a covered match because it involves the automated comparison of two automated systems of records.

—A clerk employed by a State agency enters data about an applicant for a Federal benefit program into an automated data base. At the end of the day, the State agency forwards the tape to a Federal agency which runs the tape against an automated system of records containing information about individuals who have defaulted on a Federal obligation. The purpose of the match is to identify applicants who are ineligible for the benefit because of their previous default. This is a covered match because it involves an automated comparison of non-Federal records with a Federal system of records.

—A clerk employed by a State agency sends a paper listing containing information about applicants for a Federal benefit program to the Office of Personnel Management to determine whether any applicants are Federal employees whose salaries would render them ineligible. The OPM makes a computerized comparison of this list with its automated Federal employee system of records. This is a match because it involves the automated comparison of non-Federal records with a system of records.

—A State benefit program clerk directly accesses a federal system of records and enters data into it from an applicant's form to make an eligibility determination. This is a covered match because it is an automated comparison of non-Federal records with a Federal system of records.

The following are situations where the Act's reach is less clear:

—A State benefit clerk accesses a Federal system of records and enters information received orally from an applicant in order to perform an immediate eligiblity check. In this case, there appear to be no records involved at the State end, and yet the situation is essentially the same as the one described immediately above where the clerk enters data from an applicant's form.

OBM invites comments about whether this kind of access should be covered and under what theory.

—A Federal agency maintaining a paper record system of records sends a listing from that system to another Federal agency. The recipient agency automates the listing and performs a computerized comparison with its own automated system of records containing information about a Federal benefit program. The wording of the Act suggests that this would not be a covered match since only one Federal automated system of records is involved.

OMB specifically solicits comments on whether the automation of a paper listing and subsequent automated comparison should be covered under the Act and under what theory of coverage.

• *What routine administrative matches using Federal employee records should be excluded from the Act's coverage?* The act permits OMB to identify examples of routine administrative matches for which agencies need not meet the requirements of the Matching Act. The guidelines list a few examples of such matches. OMB is interested in obtaining a broader range of examples to include and invites commentators to submit candidates.

• *When should Data Integrity Boards be permitted to waive the benefit-cost requirement?* The Computer Matching Act permits Data Integrity Boards to waive the requirement that a benefit-cost analysis be done, as well as the requirement that matches may proceed only when analysis produces a favorable benefit-cost ratio. Waivers in these circumstances are to be subject to guidance from OMB. The Guidelines discuss this issue generally, but OMB would welcome commentaters' advice on this subject, including relevant examples.

Jay Plager,

Administrator, Office of Information and Regulatory Affairs.

Office of Management and Budget Guidelines on the Conduct of Matching Programs

1. *Purpose:* These Guidelines augment and should be used with the "Office of Management and Budget (OMB) Guidelines on the Administration of the Privacy Act of 1974," issued on July 1, 1975, and supplemented on November 21, 1975, and Appendix I to OMB Circular No. A–130, published on December 24, 1985, (see 50 FR at 52738). They are intended to help agencies relate the procedural requirements of the Privacy Act (as amended by Pub. L. 100–503, the Computer Matching and Privacy Protection Act of 1988—hereinafter referred to as the Computer Matching Act), with the operational requirements of automated matching programs. These are policy guidelines applicable to the extent permitted by law. They do not authorize activities that are not permitted by law; nor do they prohibit activities expressly required to be performed by law. Complying with these Guidelines, nonetheless, does not relieve a Federal agency of the obligation to comply with the provisions of the Privacy Act, including any provisions not cited in these Guidelines.

2. *Authority:* Section 6 of Pub. L. 100–503, The Computer Matching and Privacy Protection Act of 1988, requires OMB to issue implementation guidance on the Amendments.

3. *Scope:* These guidelines apply primarily to all Federal agency subject to the Privacy Act of 1974. For this purpose, the Privacy Act relies upon the definition in the Freedom of Information Act (FOIA) 5 U.S.C. 552 at (e): "any executive department, military department, government corporation, government controlled corporation, or other establishment in the executive branch of the government (including the Executive Office of the President), or any independent regulatory agency." For the purposes of these guidelines, components Departments, e.g., the Health Care Financing Administration of the Department of Health and Human Services, are *not* considered individual agencies.

Note that the definition incorporates the "agency" definition used in the Administrative Procedure Act (5 U.S.C. 551 at (1)) which also contains a series of categories that are not covered, including State and local governments.

The Computer Matching Act amendment, however, brings State and local governments within the ambit of the Privacy Act when they are engaging in certain types of matching activities; *but only in conjunction with a Federal agency that is itself subject to the Privacy Act, and only when a Federal system of records is involved in the match.*

In general, a State or local agency or agent thereof, that is either (1) providing records to a Federal agency for use in a matching program covered by the Act; or (2) receiving records from a Federal agency's system of records for use in a matching program covered by the Act, must comply with certain of the Act's provisions. What State and local governments must do to meet the requirements of the Act is explained in paragraph 9 below.

4. *Effective Date:* These guidelines will be effective on the date of issuance in final form.

5. *Definitions:* The Computer Matching Act is an amendment of the Privacy Act of 1974 and the provisions of the former should be read within the context of the latter, and all the terms originally defined in the Privacy Act of 1974 apply.

It is especially important to note that the Computer Matching Act does not extend Privacy Act coverage to those not originally included. Thus, the subjects of Federal systems of records covered by the Computer Matching Act are "individuals," i.e., U.S. citizens and aliens lawfully admitted for permanent residence.

Two definitions that are especially relevant to matching programs are:

—"*Record*" which the Privacy Act defines as an item of information about an individual, including his or her name or some other identifier; and,

—"*System of Records*" which is a collection of such "records" from which an agency retrieves information by reference to an individual identifier.

In addition, the Computer Matching Act provides the following new terms:

a. *Matching Program.* At its simplest, a matching program is the comparison of records using a computer. The records must themselves exist in automated form (or be put in automated form in order to perform the match). Manual comparisons of, for example, printouts of two automated data bases, are *not* included within this definition.

The Computer Matching Act covers two kinds of matching programs: (1) matches involving Federal benefits programs and, (2) matches using records from Federal personnel or payroll systems of records.

(1) *Federal Benefits Matches.* The Act defines a Federal benefits matching program as:

> "any computerized comparison of two or more automated systems of records, or a system of records with non-Federal records, by applicants for, recipients or beneficiaries of, participants in, or providers of services with respect to, cash or in-kind assistance or payments under Federal benefit programs * * * [i.e., any program administered or funded by the Federal government, providing cash or in-kind assistance in the form of payments, grants, loans, or loan guarantees to individuals], * * * for the purpose of establishing or verifying the eligibility of or continuing compliance with statutory and regulatory requirements, or [for the purposes of] recouping payments or delinquent debts under such Federal benefits programs." (See 5 U.S.C. 552a(a)(8) and (12).)

The elements of this definition are discussed below:

(a) *Computerized Comparison of Data.* The record comparison must be a computerized comparison involving records from:

—Two or more automated systems of records (i.e., systems of records maintained by Federal agencies that are subject to the Privacy Act); or,

—A Federal agency's system of records (whether automated or not) and records maintained by a non-Federal (i.e., State or local government) agency (whether automated or not). To be covered, *matches* of these records *must be computerized.*

(b) *Categories of Subjects Covered.* The Computer Matching Act provisions cover only the following categories of record subjects:

—Applicants for Federal benefit programs (i.e., individuals initially applying for benefits);

—Program beneficiaries (i.e., individual program participants who are actually receiving benefits);

—Providers of services to support such programs (i.e., those who are not the primary beneficiaries of Federal benefits programs, but may derive income from them—health care providers, for example).

(c) *Types of Programs Covered.* Only Federal benefit programs providing cash or in-kind assistance to individuals are covered by this definition. State programs are not covered. Federal programs not involving cash or in-kind assistance are not covered. Programs using records about subjects who are not individuals as defined by section (a)(2) of the Privacy Act—U.S. citizens or aliens lawfully admitted for permanent residence—are not covered.

(d) *Matching Purpose.* The match must have as its purpose:

—Establishing or verifying initial or continuing eligibility for Federal benefit programs; or,

—Verifying compliance with the requirements—either statutory or regulatory—of such programs; or,

—Recouping payments or delinquent debts under such Federal benefit programs.

It should be noted that all four of these elements must be present before a matching program is covered under the provisions of the Computer Matching Act. Thus, for example, if the Department of Education matched a student loan recipient data base with a Veterans Administration (VA) educational benefit recipient data base for the purpose of ensuring that both agencies were maintaining the most current and accurate home address information, that would not be covered since the "matching purpose" is not one of the three enumerated above. If, however, the purpose of the match were to identify recipients who were receiving benefits in excess of those to which they were entitled, the match would be covered.

Moreover, elements that are peripheral to the match, even if within the definitions above will not raise a match to the Act's coverage. For example, the Federal Parent Locator Service conducts matches to locate absentee parents who are not paying child support. Such matches may result

in the identified spouse being ordered to commence payments, and some of those payments may go to recoup payments made from a Federal benefit program such as Aid to Families with Dependent Children. Because the recoupment is not the primary purpose of the match, but only an incidental consequence, such matches would not be covered.

(2) *Federal Personnel or Payroll Records Matches.* The Computer Matching Act also includes matches comparing records from Federal personnel or payroll systems of records, or such records and records of State and local governments. Again, it should be noted that regardless of whether the records are automated, the comparison must be done by using a computer; manual comparisons are not covered. Matches in this category must be done for other than "routine administrative purposes" as defined in paragraph 5a(3)(e) below. In some instances, a covered match may take place within a single agency. For example, an agency may wish to determine whether any of its own personnel are participating in a benefit program administered by the agency, and are not in compliance with the program's eligibility requirements. This internal match will certainly result in an adverse action if ineligibility is discovered. Therefore, it is covered by the requirements of the Computer Matching Act.

(3) *Exclusions from the Definition of a Matching Program.* The following are not included under the definition of matching programs. Agencies operating such programs are not required to comply with the provisions of the Computer Matching Act, although they may be required to comply with any other applicable provisions of the Privacy Act.

(a) *Statistical Matches Whose Purpose is Solely to Produce Aggregate Data Stripped of Personal Identifiers.* This does not mean that the data bases used in the match must be stripped prior to the match, but only that the results of the match must not contain individually identifiable data. Implicit in this exception is that this kind of match is not done to take action against specific individuals; although, it is possible that the statistical inferences drawn from the data may have consequences for the subjects of the match as members of a class or group. For example, a continuing matching program that shows one geographical area consistently experiencing a higher default rate than others may result in a more rigorous scrutiny of applicants from that area, but would not be a covered matching program.

(b) *Statistical Matches Whose Purpose is in Support of Any Research or Statistical Project.* The results of these matches need not be stripped of identifiers, but they must not be used to make decisions that affect the rights, benefits or privileges of *specific* individuals. Again, it should be noted that this provision is not intended to prohibit using any data developed in these matches to make decisions about a Federal benefit program in general that may ultimately affect beneficiaries. This exclusion could also cover so-called "pilot matches," i.e., small scale matches whose purpose is to gather benefit/cost data on which to premise a decision about engaging in a full-fledged matching program. Of course, if agencies used any of the information obtained to make an adverse determination, they would be required to meet the full requirements for indepedent verification and notice and opportunity to refute that apply to covered matching programs.

(c) *Law Enforcement Investigative Matches Whose Purpose is to Gather Evidence Against a Named Person or Persons in an Existing Investigation.* Certain matches performed in support of civil or criminal law enforcement activities that otherwise would be covered because they seek to establish or verify Federal benefit eligibility or use of Federal personnel or payroll records, are excluded from coverage by this section. To be eligible for exclusion, the match must be done by an agency or component whose principal function involves the enforcement of *criminal* laws, i.e., an agency that is eligible to exempt certain of its record sytems under section (j)(2) of the Privacy Act. Thus, an agency that is not itself *principally* a criminal law enforcement agency, such as the Department of Justice, may have one or more components, e.g., the Federal Bureau of Investigation or the Drug Enforcement Administration, that are.

The match must flow from an investigation already underway which focuses on a specific person or persons; "fishing expeditions" in which the subjects are identified generically as "program beneficiaries," are not eligible for this exclusion (note that the investigation may be into either criminal or civil law violations). The use of the phrase "person or persons" in this context broadens the exclusion to include subjects that are other than "individuals" as defined by the Privacy Act. Thus, for example a business entity could be the named subject of the investigation, while the records matched could be those of customers or clients. This does not mean however, that the rights afforded by the Privacy Act are extended by this section to other than "individuals."

Finally, the match must be for the purpose of gathering evidence against the named person or persons.

(d) *Tax Administration Matches.* There are four specific categorical exclusions for matches using "tax information." While that term is not defined in the Computer Matching Act, the Report accompanying the House version of the Act, H.R. 4699, cites "tax returns" and "tax return information" as the tax information that is covered by the exclusion. Those terms are defined in section 6103 of Title 26 U.S.C. at (b)(1)–(b)(3). It is clear from these sections that the information covered is under the control of the Internal Revenue Service (IRS) of the Department of the Treasury since the definitions speak of information that is "filed with the Secretary" or "received by, prepared by, furnished to, or collected by the Secretary." Moreover, section 6103(a) prohibits Federal, State and local governmental employees from disclosing tax information except as authorized by the Internal Revenue Code. This is not to say that all information in the possession of the IRS is covered by the exclusion; only tax information. Thus, for example, personnel records relating to the management of the IRS workforce would not be covered.

The exclusion covers the following:

—Matches done pursuant to section 6103(d) of the Tax Code. These matches involve disclosures of taxpayer return information to State tax officials. For matches covered by this exclusion, neither the Federal disclosing entity nor the State recipient need comply with the provisions of the Computer Matching Act.

—Matches done for the purposes of "tax adminstration" as that term is defined in section 6103(b)(4) of the Internal Revenue Code: "The term 'tax administration' means the administration, management, conduct, direction, and supervision of the execution and application of the internal revenue laws or related statutes (or equivalent laws and statutes of a State) and tax conventions to which the United States is a party; and the development and formulation of Federal tax policy relating to existing or proposed internal revenue law, related statutes, and tax conventions; and includes assessment, collection, enforcement, litigation, publication, and statistical gathering functions under such laws,

statutes or conventions." While this defintion is very broad and covers a great deal of discretionary activities on the part of IRS management, it is not intended to exempt all IRS activities from the Act's coverage; only those that truly relate to administration of the nation's tax system (as opposed to management of the IRS workforce, for example). Thus, the exclusion will permit the IRS to continue to match tax returns with interest and dividend statements, for example.

—Tax refund offset matches done pursuant to the deficit Reduction Act of 1984 (DEFRA). That Act amended sections 464 and 1137 of the Social Security Act and the procedures for affording matching subjects due process are contained in those sections.

—Tax refund offset matches conducted pursuant to statutes other than the DEFRA provided OMB finds the due process provisions of those statutes "substantially similar" to those of the DEFRA. A list of such programs is contained in Attachment 1 to this guidance. OMB will amend this list as necessary to keep it current with existing legislation. Agencies should notify OMB promptly when they think an existing statute provides an exemption in this category.

(e) *Routine Administrative Matches Using Federal Personnel Records.* These are matches between a Federal agency and other Federal agencies or between a Federal agency and non-Federal agencies for administrative purposes that use data bases that contain records predominantly relating to Federal personnel. The term "federal personnel" is defined by the Act as: "officers and employees of the Government of the United States, members of the uniformed services (including members of the Reserve components), individuals entitled to receive immediate or deferred retirement benefits under any retirement program of the Government of the United States (including survivor benefits)."

Matches whose purpose is to take "any adverse financial, personnel, disciplinary or other adverse action against Federal personnel * * *" whose records are involved in the match, are not excluded from the Act's coverage.

Examples of matches that are excluded include an agency's disclosure of time and attendance information on all agency employees to the Department of the Treasury in order to prepare the agency's payroll; or disclosure of Department of Defense (DoD) Reserve Officer identifying information to a State in order to validate and update addresses of Reservists residing in the State.

Note that this exclusion does not bring under the Act's coverage matches that *may* ultimately result in an adverse action. It only requires that their purpose not be intended to result in an adverse action. Thus, in the DoD/State reservist match example, the consequence of the match may well be that a reservist is dropped from the program because no address can be found for him or her. This result, however, negative, would not bring the match under the Act's coverage since its primary purpose was only to update an address listing.

(f) *Internal Agency Matches Using Only Records From the Agency's System of Records.* Internal agency matching is excluded on the same basis as Federal personnel record matching above: provided no adverse intent as to a Federal employee motivates the match. Section (b)(1) of the Privacy Act permits agencies to disseminate Privacy Act records to agency employees on an official need-to-know basis. This exclusionary provision does not disturb that principle, except where Federal personnel records are involved. Thus, for example, the Social Security Administration could match with the Health Care Financing Administration to detect and ultimately recoup overpayments for a specific Department of Health and Human Services program. That match would not be covered by the provisions on the Computer Matching Act.

Moreover, the mere presence of Federal employee records in the data bases being matched would not necessarily bring the match under the Act's coverage. To be covered, the records would have to be predominantly those relating to Federal employees—a personnel system of records, for example—and the primary intent would have to be to take an adverse action of some kind against the Federal employees specifically. If the Department of Education matched its student loan defaulter file against its own employee data base in order to detect and take action against Education employees who have defaulted, that match would be covered by the Act. The same department matching its undergraduate student loan defaulter file against its medical school loan defaulter file in order to determine the incidence of repeat defaulters, would not be covered, even though some of those in the data base might be Federal employees.

(g) *Background Investigation and Foreign Counter-intelligence Matches.* Matches done in the course of performing a background check for security clearances of Federal personnel or Federal contractor personnel are not covered. Nor are matches done for the purpose of foreign counter-intellgience.

b. *Recipient Agency.* Recipient agencies are Federal agencies (or their contractors) that receive records from the Privacy Act systems of records of other Federal agencies or from State and local governments to be used in matching programs.

c. *Source Agency.* A source agency is a Federal agency that discloses records from a system of records to another Federal agency or to a State or local governmental agency to be used in a matching program. It is also a State or local governmental agency that discloses records to a Federal agency to be used in a matching program. The Computer Matching Act does not cover matching between non-Federal entities.

d. *Non-Federal Agency.* A non-Federal agency is a State or local governmental agency that receives records contained in a system of records from a Federal agency to be used in a matching program.

e. *Federal Benefit Program.* See paragraph 5a(1)(r) above.

6. *Conducting Matching Programs:* The following applies to Federal agencies. Requirements pertaining to non-Federal agencies are in paragraph 9 below.

Agencies undertaking matching programs covered by the Computer Matching Act will need to make sure that they comply with the following requirements:

a. *Prior Notice to Record Subjects.* There are two ways in which record subjects can receive notice that their records may be matched:

—*By direct notice* when there is some form of contact between the government and the subject, e.g., information on the application form when they apply for a benefit or in a notice that arrives that a benefit that they receive;

—*By constructive notice,* e.g., publication of systems notices, routine use disclosures, and matching programs in the **Federal Register.**

For front-end eligibility verification programs whose purpose is to validate an applicant's initial eligibility for a benefit and later to determine continued eligibility, agencies should provide direct notice by amending the application form where necessary to enlarge the statement provided pursuant to section (e)(3) of the Privacy Act so that applications are put on notice that the information they provide may be verified through a computer match.

Agencies should also provide periodic notice whenever the application is renewed, or at the least, during the period the match is authorized to take place, in a notice accompanying the benefit. Providers of services should be given notice on the form on which they apply for reimbursement for services provided.

In some cases, constructive notice may have to suffice. For example, a Federal agency that discloses records to a State or local government in support of a non-Federal matching program is not obligated to provide actual notice to each of the record subjects; **Federal Register** publication in this instance is sufficient. Moreover, in some instances, it may be possible to provide actual notice—in matches done to locate individuals, in emergency situations where health and safety reasons argue for a swift completion of the match; or in investigative matches where direct notice immediately prior to a match would provide the subject an opportunity to alter behavior.

In any case, notice to the record subject should be done well before a matching program commences. It should be part of the normal process of implementing a Federal benefits program.

b. *Matching Notices—Publication Requirements.* Agencies must publish notices of the establishment or alteration of matching programs in the **Federal Register** at least 30 days prior to conducting such programs. The recipient Federal agency in a match between Federal agencies or in a match in which a non-Federal agency discloses records to a Federal agency is responsible for publishing such notices. Where a State or local agency is the recipient of records from a Federal agency's system of records, the Federal source agency is responsible for publishing such notices. Where a State or local agency is the recipient of records from a Federal agency's system of records, the Federal source agency is responsible for publishing the notice. Where more than one agency is involved in a matching program, agencies are encouraged to publish a consolidated notice. Such notices should contain the following information:

—Name of participating agency or agencies;
—Purpose of the match;
—Authority for conducting the matching program. (It should be noted that the Computer Matching Act provides no independent authority for carrying out any matching activity);
—Categories of records and individuals covered;
—Inclusive dates of the matching program;
—Address for receipt of public comments or inquiries.

Copies of proposed matching notices must accompany reports of proposed matches submitted pursuant to section (r) of the Privacy Act as amended. See OMB Circular No. A–130, Appendix I, as amended.

c. *Preparing and Executing Matching Agreements.* Agencies should allow sufficient lead time to ensure that matching agreements can be negotiated and signed in time to secure Data Integrity Board decisions. Federal agencies receiving records from or disclosing records to non-Federal agencies for use in matching programs are responsible for preparing the matching agreements and should solicit relevant data from non-Federal agencies were necessary. In cases where matching takes place entirely within an agency under the Federal personnel or payroll matching provisions, the agency may satisfy the matching agreement requirements by preparing a Memorandum of Understanding between the system of records managers involved, and presenting that to the Data Integrity Board for consideration.

Agreements must contain the following:

—*Purpose and Legal Authority.* Since the Computer Matching Act provides no independent authority for the operation of matching programs, agencies should cite a specific Federal or State statutory or regulatory basis for undertaking such programs.
—*Justification and Expected Results.* An explanation of why computer matching as opposed to some other administrative activity is being proposed and what the expected results will be.
—*Records Description.* An identification of the system of records or non-Federal records, the number of records, and what data elements will be included in the match. Projected starting and completion dates for the program should also be provided.
—*Notice Procedures.* A description of the individual and general periodic notice procedures. See paragraph 6.a., above.
—*Verification Procedures.* A description of the methods the agency will use to independently verify the information obtained through the matching program. See paragraph 6.f., below.
—*Disposition of Matched Items.* A statement that information generated through the match, will be destroyed as soon as it has served the matching program's purpose and any legal retention requirements the agency establishes in conjunction with the National Archives and Records Administration or other cognizant authority.
—*Security Procedures.* A description of the administrative and technical safeguards to be used in protecting the information. They should be commensurate with the level of sensitivity of the data.
—*Records Usage, Duplication and Redisclosure Restrictions.* A description of any specific restrictions imposed by either the source agency or by statute or regulation on collateral uses of the records used in the matching program. In general, recipient agencies should not put the records obtained for a matching program and under the terms of a matching agreement to other uses absent a specific statutory requirement, or where there is a direct connection to the conduct of the matching program. The agreement should specify how long a recipient agency may keep records provided for a matching program, and when they will be returned to the source agency or destroyed.
—*Records Accuracy Assessments.* Any information relating to the quality of the records to be used in the matching program. Record accuracy is important from two standpoints. In the first case, the worse the quality of the data, the less likely a matching program will have a cost-beneficial result. In the second case, the Privacy Act requires Federal agencies to maintain records they maintain in systems of records to a standard of accuracy that will reasonably assure fairness in any determination made on the basis of the record. Thus an agency receiving records from another Federal agency or from a non-Federal agency needs to know information about the accuracy of such records in order to comply with the law. Moreover, the Privacy Act also requires agencies to take reasonable steps to ensure the accuracy of records that are disclosed to non-Federal recipients.
—*Comptroller General Access.* A statement that the Comptroller General may have access to all records of a recipient agency or non-Federal agency necessary to monitor or verify compliance with the agreement. It should be understood that this requirement permits the Comptroller General to inspect State and local records used in matching programs covered by these agreements.

d. *Securing Approval of Data Integrity Boards.* Before an agency may participate in a matching program, the agency's Data Integrity Board must have evaluated the proposed match and approved the terms of the matching agreement. (See paragraph 7.d. below, for appeals of Board disapprovals).

e. *Reports to OMB and Congress.* See OMB Circular No. A–130, Appendix I as amended.

f. *Providing Due Process to Matching Subjects.* The Computer Matching Act prescribes certain due process requirements that the subjects of matching programs must be afforded when matches uncover adverse information about them.

—*Verification of Adverse Information.* Agencies may not premise adverse action upon the raw results of a computer match. Any adverse information so developed must be subjected to investigation and verification before action is taken. In many cases, the individual record subject is the best source for determining a finding's validity, and he or she should be contacted where practicable. In other cases, the payer of a benefit will have the most accurate record relating to payment and should be contacted for verification. Note that, in some cases, contacting the subject initially may permit him or her to conceal data relevant to a decision; and, in those cases, an agency may elect to examine other sources. Absolute confirmation is not required; a reasonable verification process that yields confirmatory data will provide the agency with a reasonable basis for taking action.

As to applicants for Federal benefits programs whose eligibility is being verified through a matching program, agencies may not make a final determination until they have completed the due process steps the Act requires. This does not mean, however, that they are required to place an applicant on the rolls pending a determination, but only that they may not make a final decision.

For matching subjects receiving benefits, however, agencies may not suspend or reduce payments until the due process steps have been completed.

—*Notice and Opportunity to Contest.* Agencies are required to notify matching subjects of adverse information uncovered and given them an opportunity to explain prior to making a final determination. Again, this does not mean that an applicant must be put on the rolls pending his or her explanation, but only that the agency may not make a final determination. Current benefits recipients, however, may not have those benefits suspended or reduced pending the expiration of this period.

Individuals may have at least 30 days to respond to a notice of adverse action. The period runs from the date of the notice until 35 calendar days later. The 5 extra days are intended to cover transit time.

If an individual contacts the agency within the notice period and indicates his or her acceptance of the validity of the adverse information, agencies may take immediate action to deny or terminate. Agencies may also take action if the period expires without contact.

If the Federal benefit program involved in the match has its own due process requirements, those requirements may suffice for the purposes of the Computer Matching Act, provided they are at least as strong as that Act's provisions.

In any case, if an agency determines that there is likely to be a potentially significant effect on public health or safety, it may take appropriate action, notwithstanding these due process provisions.

7. *Establishing Data Integrity Boards:* The Computer Matching Act requires that each Federal agency that acts as either a source or recipient in a matching program, establish a Data Integrity Board to oversee the agency's participation. It should be noted that the fact that records about an agency's personnel are used in a matching program does not automatically trigger this requirement. Because, for example, the Office of Personnel Management (OPM) asserts governmentwide ownership of the system of records containing the Federal employee Official Personnel Folder (OPF), disclosures from this system of records involve OPM, not the employing agency. There are many small agencies that will never directly disclose records from their own systems of records for matching purposes and they are thus not required to establish Data Integrity Boards.

a. *Location and Staffing.* While the Act specifies neither the organizational level at which the Boards are to be established, nor their makeup (with two exceptions), it is clear from the context of the Data Integrity Board section that Congress expected agencies to place the Boards at the top of the organization and staff them with senior personnel. It is the intent of these guidelines not to dictate a specific structure but to suggest ways of complying with this expectation.

—*Location.* As to location, because the Boards are to serve a coordinating function, it would be inappropriate to locate them at other than the departmental level (or its agency equivalent). This is not to say that subordinate boards at component levels may not be useful to do the preliminary work necessary to provide a matching program proposal to the senior Board for approval. Indeed, in large agencies with many matching programs, this will likely be the rule. But, the approval should come from the top, and this argues for the placement suggested above.

—*Staffing.* The Act requires that the Board consist of senior agency officials designated by the agency head. The only two mandatory members are the Inspector General of the agency (if any) who may not serve as Chairman, and the senior official responsible for the implementation of the Privacy Act who has been designated pursuant to 44 U.S.C. 3506(b). OMB recommends that the agency Privacy Act Officer be designated as the Board's Secretary.

—*Operation.* While much of the work of the Board may be delegated to less senior members—for example, the compilation of reports, advising of program officials, and maintaining and disseminating information about the accuracy and reliability of data used in matching—the approval of matching agreements should not be delegated.

The Board should meet often enough to ensure that agency matching programs are carried out efficiently, expeditiously and in conformance with the Privacy Act, as amended.

b. *Review Responsibilities.* Because matching agreements are key to the implementation of the Computer Matching Act, the Act makes their review the foremost responsibility of the Boards. Boards are responsible for approving or disapproving matching programs based upon their assessment of the adequacy of these agreements. They should ensure that their reasons for either approving or denying are well documented. Agency officials proposing matching programs should ensure that they provide the Data Integrity Board with all of the information relevant and necessary to permit it to make an informed decision, including, where appropriate, a benefit/cost analysis.

—*Review of Proposals to Conduct or Participate in Matching Programs.* The Board must review the matching agreements that support each proposed matching program and find them in conformance with the provisions of the Computer Matching

Act as well as any other relevant statutes, regulations, or guidelines (see the attached checklist). A matching agreement should remain in force for only so long as necessary to accomplish the specific matching purpose; indeed, it automatically expires at the end of 18 months unless 3 months prior to the actual expiration date, the Data Integrity Board finds that the program will be conducted without change and each party certifies that the program has been conducted in compliance with the matching agreement. Under this finding, the Board may extend the agreement for 1 additional year.

Annual Review. The Act requires Data Integrity Boards to conduct an annual review of all matching programs in which the agency has participated as either a source or recipient agency. This review has two focuses: to determine whether the matches have been, or are being, conducted in accordance with the appropriate authorities and under the terms of the matching agreements; and, to assess the utility of the programs in terms of their costs and benefits. The Act suggests that this latter review as it pertains to recurring programs, should result in a basis for continuing participation in, or operation of, such programs. The Computer Matching Act also requires the Boards to review annually agency recordkeeping and disposal policies and practices for conformance with the Act's provisions. These reviews should take place within the context of the annual review referenced above. In addition, the Boards may review and report on matching activities not covered by the Computer Matching Act.

c. *Benefit/Cost Analysis.* The Computer Matching Act requires that a benefit/cost analysis be a part of an agency decision to conduct or participate in a matching program. The requirement occurs in two places: in matching agreements which must include a justification of the proposed match with a "specific estimate of any savings"; and, in the Data Integrity Board review process.

The intent of this requirement is not to create a presumption that when agencies balance individual rights and cost savings, the letter should inevitably prevail. Rather, it is to ensure that sound management practices are followed when agencies use records from Privacy Act systems of records in matching programs. Particularly in a time when competition for scarce resources is especially intense, it is not in the government's interests to engage in matching activities that drain agency resources that could be better spent elsewhere. Agencies should use the benefit/cost requirement as an opportunity to reexamine programs and weed out those that produce only marginal results.

While the Act appears to require a favorable benefit/cost ratio as an element of approval of a matching program, agencies should be cautious about applying this interpretation in too literal a fashion. For example, the first year in which a matching program is conducted may show a dramatic benefit/cost ratio. However, after it has been conducted on a regular basis (with attendant publicity), its deterrent effect may result in much less favorable ratios. Elimination of such a program, however, may well result in a return to the prematch benefit/cost ratio. The agency should consider not only the actual savings attributable to such a program, but the consequences of abandoning it.

For proposed matches without an operational history, benefit/cost analyses will of necessity be speculative. While they should be based upon the best data available, reasonable estimates are acceptable at this stage. Nevertheless, agencies should design their programs so as to ensure the collection of data that will permit more accurate assessments to be made. As more and more data become available, it should be possible to make more informed assumptions about the benefits and costs of matching.

Because matching is done for a variety of reasons, not all matching programs are appropriate candidates for benefit/cost analysis. The Computer Matching Act tacitly recognizes this point by permitting Data Integrity Boards to waive the benefit/cost requirement if they determine in writing that such an analysis is not required. Indeed, the Act itself supplies one such waiver: if a match is required by statute, the initial review by the Board need not consider the benefits and costs of the match. However, the Act goes on to require that when the matching agreement is renegotiated, a benefit/cost analysis covering the preceding matches must be done. Note that the Act does not require the showing of a favorable ratio for the match to be continued, only that an analysis be done. The intention is to provide Congress with information to help it evaluate the effectiveness of statutory matching requirements with a view to revising or eliminating them where appropriate.

Other examples of matches in which the establishment of a favorable benefit/cost ratio would be inappropriate are:

—A match of a system of records containing information about nurses employed at VA hospitals with records maintained by State nurse licensing boards to identify VA nurses with "impaired licenses", i.e., those who have had some disciplinary action taken against them.

—A match whose purpose is to identify and correct erroneous data, e.g., Project Clean Data which was run to correct and eliminate erroneous Social Security Numbers.

—Selective Service System matching to identify 18 year olds for draft registration purposes.

d. *Appeals of Denials.* If a Board disapproves a matching agreement, the Computer Matching Act permits any party to the agreement to appeal that disapproval to the Director of the Office of Management and Budget. While this literally means that a recipient agency (whether Federal or non-Federal) could appeal the refusal of a source agency to approve an agreement, the actual results of such cross agency appeals, even if successful, are unlikely to result in the implementation of a matching program since the source agency may still properly refuse to disclose the necessary Privacy Act records. Nothing in the appeal process is intended to result in one agency being able to force another agency to participate unwillingly in a matching program.

Accordingly, OMB will only entertain appeals from senior agency officials who are parties to a proposed matching agreement that has been disapproved by the agency's own Data Integrity Board. By senior officials, OMB means the Inspector General of an agency or the head of an operating division carrying out the matching program.

The appeal should be forwarded to the Director, Office of Management and Budget, Washington, DC 20503 within 30 days following the Board's written disapproval. The following documentation should accompany the appeal:

—Copies of all of the documentation accompanying the initial matching agreement proposal;

—A copy of the Board's disapproval and reasons therefor;

—Evidence supporting the cost-effectiveness of the match;

—Any other information relevant to a decision, e.g., timing considerations, the public interest served by the match, etc.

The Director will promptly notify Congress of receipt of an appeal and of his or her decision. A decision to approve a matching agreement will not be effective until 30 days after it is so reported to Congress. The decision of the Director shall be based upon the information submitted.

OMB expects that this appeal process will be rarely used. One way to ensure its rarity is for agencies to present only well thought-out and thoroughly documented proposals to the Boards for decisions.

e. *Information Maintenance and Dissemination Responsibilities.* The Act anticipates that the Data Integrity Boards will be an information resource on matching for the agency. Thus, while the full Board may actually convene only a few times each year to consider matching program proposals, the Act requires a continuing presence to carry out these additional functions. The Board, therefore, should designate a representative to answer questions on matching both from within the agency and from outside entities. This point of contact should be able to advise on what actions are needed to comply with the provisions of the Computer Matching Act, and to collect and disseminate information on the quality of the records used in matching programs.

8. *General Reporting Requirements:* The reporting requirements of the Data Integrity Boards will be contained in OMB Circular No. A–130, Appendix I. Matching reports are to be included in the general Privacy Act implementation reporting requirements outlined in that Circular.

9. *Specific Responsibilities of Non-Federal Agencies:* It is not the intent of this Act to affect, nor do its provisions reach, State and local governments using their own records for matching purposes. Nor does the Act reach State or local matching programs using records from Federal systems of records for purposes other than those defined in the Act as for a "matching program."

Thus, for example, a Federal agency could disclose information about beneficiaries of a Federal program to a State agency in order to permit the State to conduct a matching program to determine eligibility for a State public assistance program. So long as the purpose was to validate eligibility for the State as opposed to the Federal benefit program, the Computer Matching Act would not come into play.

If however, the Federal agency disclosed the names and income levels of its own Federal employees to a State under these circumstances, the matching requirements would have to be met since this match would be covered under the "Federal employee personnel and payroll" provisions.

Non-Federal agencies intending to participate in covered matching programs are required to do the following:

—Execute matching agreements prepared by a Federal agency or agencies involved in the matching program;

—Provide data to Federal agencies on the cost and benefits of matching programs;

—Certify that they will not take adverse action against an individual as a result of any information developed in a matching program unless the information has been independently verified and until 30 days after the individual has been notified of the findings and given an opportunity to contest them.

—For renewals of matching programs, certify that the terms of the agreement have been followed.

10. *Sanctions.* The Computer Matching Act specifies that neither a Federal nor a non-Federal agency may disclose a record for use in a matching program if either has reason to believe the recipient is not meeting the terms of the matching agreement or the due process requirements of the Computer Matching Act. This provision does not create an affirmative duty on the part of a source agency to investigate a recipient agency's level of compliance. However, if a source agency receives information that would lead it to conclude that the recipient agency was not in compliance, it must consult with that agency before continuing to participate in the matching program.

Moreover, it should be noted that the civil remedies provisions of the Privacy Act are available to matching record subjects who can demonstrate that they have been harmed by an agency's violation of the Privacy Act or its own regulations. A successful litigant is entitled under the Privacy Act to receive *at least* $1,000 and reasonable attorney's fees. Given the large numbers of record subjects typically involved in a matching program, agencies should be especially diligent in guarding against actions that would create liabilities.

[FR Doc. 89–9353 Filed 4–18–89; 8:45 am]

BILLING CODE 3110–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–26719; File No. SR–NASD–89–19]

Self-Regulatory Organizations; Proposed Rule Change by National Association of Securities Dealers, Inc., Relating to Predispute Arbitration Clauses in Customer Agreements

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on March 27, 1989, the National Association of Securities Dealers, Inc. ("NASD") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change to Article III, section 21 of the NASD's Rules of Fair Practice generally requires members using predispute arbitration clauses in customer agreements to highlight those clauses and to include disclosures concerning the nature of the arbitration process and the meaning and effect of an affirmative waiver of a customer's right to litigate disputes arising under agreements containing such clauses. The proposed rule change would also prohibit the use of any customer agreement containing a predispute arbitration clause of language that would limit or contradict the rules of any securities industry self-regulatory organization, limit the ability of a party to file a claim in arbitration, or limit the ability of the arbitrators to make an award.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NASD has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The proposed rule change, which is the product of the coordinated efforts of the Commission and the Securities Industry Conference on Arbitration ("SICA") to provide more explicit disclosure relating to predispute arbitration clauses in customer agreements, is intended to insure that customers are made aware of the existence, nature and effect of predispute arbitration clauses by requiring that such agreements be highlighted by the member and acknowledged by the customer. Under the proposal, a member utilizing a predispute arbitration clause in a customer agreement must include statements to the effect that arbitration is final and binding and that the parties are waiving their right to seek remedies in court, that pre-arbitration discovery is generally more limited than in court proceedings, that arbitrators' awards are not required to include factual findings, that the right to appeal is strictly limited, and that a panel of arbitrators will typically include a minority of arbitrators who are affiliated with the securities industry. The proposed rule requires that the foregoing disclosure language be included and highlighted in the customer agreement, and that disclosure of the existence of the arbitration agreement appear immediately preceding the signature line in the customer agreement.

The proposed rule change is also intended to preserve the rights of public customers, which are guaranteed under the NASD Code of Arbitration Procedure, by prohibiting the imposition of conditions that limit or contradict those rules. The rule change will also prohibit attempts to limit by contract the ability of a party to file a claim or the ability of arbitrators to make an award.

The proposed rule change provides that it shall be effective 120 days after Commission approval to provide members sufficient time to implement changes in their customer account agreements.

The NASD believes that the proposed rule change is consistent with the provisions of section 15A(b)(6) of the Act, as the proposed rule change will facilitate the arbitration process in the public interest and, therefore, is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and, in general, protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD does not believe that the proposed rule amendment imposes any burden on competition that is not necessary or appropriate in furtherance of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

A discussion draft of the proposed rule change was published for comment in NASD Notice to Members 88–87 on November 1, 1988. As a result of the Notice, the NASD received 53 comment letters.[1] Of these, 41 comment letters plus the comment letter of the Securities Industry Association (79%) supported the discussion draft proposal, but urged deletion of the separate customer initialling requirement set forth in section 21(f)(2) of the discussion draft and noted that both the New York and American Stock Exchanges and proposed similar rules without the separate initialling requirement. In addition, two members generally opposing the proposal also objected to the requirement of the aforementioned separate customer initialling requirement. Opposition to the proposal set forth in the discussion draft was voiced on various grounds by eight members and two non-member commentators (19%). Based on the comments of the clear majority of the commentators and its overriding concern for the maintenance of uniformity in the securities industry arbitration process, the NASD's Board of Governors revised its draft of the proposed rule change to correspond to parallel proposals of the New York and American Stock Exchanges.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the NASD consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

[1] The Notice to Members, a list of commentators, and the comment letters are attached as Exibit 2 of the rule filing.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to the file number in the caption above and should be submitted by May 10, 1989.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30–3(a)(12).

Jonathan G. Katz,

Secretary.

Dated: April 13, 1989.

[FR Doc. 89–9371 Filed 4–18–89; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–26720; File No. PHLX 89–14]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Filing and Immediate Effectiveness of Proposed Rule Change Relating to Recision of Fee Regarding Research of Eligible Over-the-Counter ("OTC") Stocks to Underlie Options Listings

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on March 23, 1989, the Philadelphia Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Philadelphia Stock Exchange, Inc. ("PHLX" or the "Exchange"), pursuant to Rule 19b–4 of the Securities Exchange

Act of 1934 ("Act"), submits the following proposed rule change rescinding a $100 fee regarding research of eligible Over-the-Counter ("OTC") stock to underlie options listings.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statements of the Purpose of, and Statutory Basis for the Proposed Rule Change

On July 12, 1988, the PHLX submitted SR–PHLX–88–23, a proposed fee change that, among other things, established a $100 fee for each OTC stock that a specialist requests to be reviewed for options listing. The rule change indicated that "the fee will help recover the cost of researching a security to ascertain whether it meets the eligibility criteria for underlying securities under PHLX Rule 1009." The filing also indicated that the fee will discourage frivolous requests and cover the expenses and staff time involved in researching such requests.

Since the implementation of the $100 fee, the Exchange has not received any further specialist requests for an OTC Stock eligibility options listing. In this regard, the Exchange believes that the fee poses to be a significant disincentive to specialists making OTC stock suggestions and the Exchange's program to discover and develop potentially successful OTC stock options has suffered concomitantly. Accordingly, the proposed rule change rescinds the $100 fee regarding research of eligible OTC stocks to underlie PHLX options listings.

The proposed rule change is consistent with section 6(b)(4) of the Exchange Act in that it rescinds in an equitable manner a fee imposed on equity option specialist members of the Exchange. The proposed rule change is also consistent with section 6(b)(5) of the Act in that it removes impediments to and perfects the mechanism of a "free and open market."

B. Self-Regulatory Organization's Statement on Burden on Competition

The PHLX does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Options Committee of the Exchange has reviewed and approved this proposal.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3) of the Securities Exchange Act of 1934 and subparagraph (e) of Securities Exchange Act Rule 19b–4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by May 10, 1989.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

Dated: April 12, 1989.

[FR Doc. 89–9373 Filed 4–18–89; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–26712; File No. SR–PHLX–89–13]

Self-Regulatory Organizations; Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to "Definition of Agency Order in Connection with PACE."

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on April 3, 1989, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Philadelphia Stock Exchange, Inc., pursuant to Rule 19b–4 under the Act, proposes to amend Exchange Rule 229, Supplementary Material .02, to read as follows (italics indicates new language):

Philadelphia Stock Exchange Automated Communication and Execution System ("PACE")

Rule 229. No change.

* * * Supplementary Material

.01 No change.

.02 Only agency orders may be executed under PACE.

For purpose of the PACE System, an agency order is any order entered on behalf of a public customer, and does not include any order entered for the account of a broker-dealer, the account of an associated person of a broker-dealer, or any account in which a broker-dealer or an associated person of a broker-dealer has any direct or indirect interest.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of

and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C), below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statment of the Purpose of and Statutory Basis for the Proposed Rule Change

PHLX Rule 229 relates to the Philadelphia Stock Exchange Automated Communication and Execution System, which provides for the automatic execution of orders on the Exchange equity floor under predetermined conditions. Pursuant to Supplementary Material .02 of Phlx Rule 229, only agency orders may be executed through PACE. This provision was intended to limit the availability of PACE to public customer orders. Because agency orders can be defined broadly to include orders entered by broker-dealers or their affiliates, the amendment clarifies the original intent of the Rule. While the Exchange is congnizant of the fact that PACE order entry firms may not know if a certain order is entered for the account of a broker-dealer or its affiliate, the Exchange would only require that order entry firms make a good faith effort in routing public customer agency orders to PACE. The proposed rule change is consistent with section 6(b) (5) of the Act in that it is designed to prevent fraudulent and manipulative acts and practices, will promote just and equitable principles of trade, and protect investors and the public interest. Additionally, the proposal is consistent with section 11A(a)(1)(c)(iv) of the Act in that it promotes "the practicability of brokers executing *investors'* orders in the best market." (Emphasis added)

B. Self-Regulatory Organization's Statement on Burden on Competition

The Phlx does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding of (ii) as to which Phlx consents, the Commission will:

(A) By order approve such proposed rule change, or,

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted May 10, 1989.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Date: April 11, 1989.

Jonathan Katz,

Secretary.

[FR Doc. 89-9372 Filed 4-18-89; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-16915; 812-7127]

Government Securities Equity Trust, Series I and Subsequent Series, et al. (Formerly AIM T.A.R.G.E.T. Trust Series I (Weingarten) and Subsequent Series); Application

April 13, 1989.

AGENCY: Securities and Exchange Commission ("Commission").

ACTION: Notice of Application for an Order under the Investment Company Act of 1940 (the "1940 Act").

Applicants: Government Securities Equity Trust, Series I and Subsequent Series (the "Trust"), and AIM Convertible Securities, Inc., AIM Equity Funds, Inc., AIM Government Funds, Inc., AIM Tax-Exempt Funds, Inc., High Yield Securities, Inc., Short-Term Investments Co., and Tax-Free Investments Trust, on behalf of themselves and any series or portfolio thereof (other than any of the aforementioned mutual funds or portfolios thereof which are money market or no-load funds), AIM Advisors, Inc. ("AIM Advisors"), AIM Capital Management, Inc. ("AIM Capital"), AIM Distributors, Inc. ("AIM Distributors"), and any mutual funds, including any portfolios or series thereof (other than money market or no-load funds) that may in the future be advised by or have as their principal underwriter AIM Advisors, AIM Capital, or AIM Distributors, or any of their affiliates that are under common control with them (all of the named mutual funds and future funds listed or described above collectively, in whole or in part, the "Funds"), and Prudential-Bache Securities Inc. (the "Sponsor") (all of the foregoing, the "Applicants").

Relevant 1940 Act Sections: Order requested: (i) Under section 6(c) granting exemptions from sections 12(d)(1), 14(a) and 19(b) of the 1940 Act and Rule 19b-1 thereunder; and (ii) under section 17(d) and Rule 17d-1 thereunder, approving certain affiliated transactions.

Summary of Application: Applicants seek an open-ended order to permit multiple series of the Trust to invest in portfolios consisting both of shares of one of the Funds and zero-coupon obligations, to exempt the Trust from having to take for its own account or place with others $100,000 worth of units under an investment letter, and to permit the Trust to distribute capital gain dividends resulting from redemption of Fund shares within a reasonable time after receipt.

Filing Dates: The application was filed on September 21, 1988, and amended on April 10 and 11, 1989.

Hearing or Notification of Hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is order. Any requests must be received by the Commission by 5:30 p.m., on May 8, 1989. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicants with the request, either personally or by mail, and also send it to the Secretary of the Commission, along with proof of service by affidavit or, for lawyers, by certificate. Request

notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 5th Street NW., Washington, DC 20459. Applicants (except Prudential-Bache Securities, Inc.), Eleven Greenway Plaza, Suite 1919, Houston, Texas 77046; Prudential-Bache Securities Inc., One Seaport Plaza, 199 Water Street, New York, New York 10292.

FOR FURTHER INFORMATION CONTACT: Staff Attorney Regina Hamilton (202) 272–3024, or Branch Chief Karen L. Skidmore (202) 272–3023 (Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier: (800) 231–3282 (in Maryland (301) 258–4300).

Applicants' Representations

1. Prudential-Bache Securities, Inc. (the "Sponsor"), a Delaware corporation, is a wholly-owned subsidiary of Bache Group Inc. and an indirect wholly-owned subsidiary of The Prudential Insurance Company of America. The Sponsor, a registered broker-dealer engaged in the investment advisory business, engages in a broad range of securities activities, and has sponsored numerous unit investment trust series. The Sponsor will serve as the sponsor and depositor for each series of the Trust ("Trust Series"), and will perform functions typical of unit investment trust sponsors.

2. Each of the Funds is an open-end management investment company registered under the 1940 Act. Although the Funds are authorized pursuant to previous exemptive orders to establish separate classes of securities within the same investment portfolio (*see* Investment Company Act Release Nos. 14695 (August 22, 1985) and 15592 (February 27, 1987), no shares of any Fund that has established more than one class of shares will be deposited in any Trust Series, and no Fund, shares of which have been deposited in any Trust Series, will thereafter establish additional classes of shares. Each Fund (or a portfolio thereof) offers shares with front-end sales charges; none has any present intention of imposing any deferred sales charges. However, Applicants have agreed as a condition to the requested order that should any of the Funds ever impose such charges, Applicants agree to comply with Rule 22d–1 as adopted and as it may be modified, and with proposed Rule 6c–10 as proposed, adopted, and as it may be modified.

3. AIM Advisors and AIM Capital (together, the "Advisors") are investment advisers registered under the Investment Advisers Act of 1940. Each Fund has entered into an investment advisory or management agreement with one of the Advisors. AIM Distributors is a broker-dealer registered under the Securities Exchange Act of 1934 and acts as principal underwriter for the shares of each Fund. AIM Advisors, AIM Capital and AIM Distributors are all wholly-owned subsidiaries of A I M Management Group Inc., a privately held corporation.

4. The Trust will be registered under the 1940 Act as a unit investment trust and will offer units in Trust Series. Each Trust Series will be a separate unit investment trust created pursuant to a trust indenture which will incorporate by reference the master trust agreement between the Sponsor and a bank (as defined in section 2(a)(5) of the 1940 Act) that satisfies the criteria in section 26(a) of the 1940 Act (the "Trustee") (the trust indenture and master trust agreement together, the "Trust Agreement"). Pursuant to the Trust Agreement, the Sponsor will deposit into each Trust Series: (i) Investments in U.S. Government and other types of zero-coupon obligations or contracts and funds for the purchase of such obligations ("Zero-Coupon Obligations") purchased from third parties at a price determined by the independent evaluator; and (ii) shares of one of the Funds or contracts and funds for the purchase of such shares. The Sponsor's obligation to purchase any such Zero-Coupon Obligations held by a Trust Series will be backed by an irrevocable letter of credit. All Zero-Coupon Obligations in any one Trust Series would have essentially identical maturities. The Sponsor expects to deposit in the Trust substantially more than $100,000 aggregate value of Zero-Coupon Obligations and Fund shares.

5. Simultaneously with each deposit (the "Date of Deposit") the Trustee will deliver to the Sponsor registered certificates for units ("Units") representing the entire beneficial ownership of each Trust Series. Following the declaration of effectiveness of a Trust's registration statement on Form S–6 for the securities of that Trust Series under the Securities Act of 1933, and clearance by the Blue Sky authorities under applicable state law, the Units will be offered for sale to the public by the Sponsor at the public offering price described in the applicable final prospectus. In addition to holding Fund shares and Zero-Coupon Obligations, each Trust Series will also hold accrued and undistributed income, dividends, capital gains, and undistributed cash.

6. Pursuant to the Trust Agreement, the Sponsor may deposit additional Fund shares and Zero-Coupon Obligations, which may result in a potential corresponding increase in the number of Units outstanding. The Sponsor anticipates that any additional Fund shares or Zero-Coupon Obligations deposited in a Trust Series subsequent to the initial Date of Deposit in connection with the sale of the additional Units will maintain as far as practicable the original percentage relationship between the principal amounts of Fund shares and Zero-Coupon Obligations in the portfolio of the Trust Series. The Fund shares and Zero-Coupon Obligations will not be pledged or in any other way subjected to any debt by a Trust Series after they are deposited into such Trust Series.

7. In selecting the Fund shares to be deposited into each Trust Series, the Sponsor and the Advisors will select for deposit that Fund which they mutually agree would offer the most appeal to investors based upon their perceptions of the market for the Trust. Factors including the historical performance of the Fund, the nature of the underlying Fund portfolio, and perceived areas of growth in certain markets, will enter into the decision at the time of deposit. The Advisors currently anticipate that shares of Weingarten will be used in the initial Trust Series.

8. The purpose of the Trust Series is to provide preservation of capital and the opportunity for capital appreciation. The Trust would be structured so that each would be structured so that each Trust Series would contain a sufficient amount of Zero-Coupon Obligations to ensure that, at the specified maturity date for such Series, the purchaser of a Unit on the first date it is offered for sale would receive back the approximate total amount of the original investment in the Trust, including the sales load. Zero-Coupon Obligations deposited in the Trust will be non-callable or callable at par. Thus, at the scheduled termination of a Trust Series, such investor would receive more than the original investment to the extent that the underlying Fund made any distributions during the life of the Trust and had any value at the maturity of the Series.

9. Shares of only one of the Funds will be sold for deposit into any one Trust Series at net asset value: the Funds will waive any otherwise applicable sales load with respect to all shares sold or

deposited in any Trust Series. Furthermore, because Fund shares have their net asset values calculated daily and these values would be readily available to the Sponsor, no evaluation fee will be charged with respect to determining the value of the Funds shares which compose part of the value of the Units. An evaluation fee will be charged, however, with respect to that portion of the Trust Series' portfolio that consists of Zero-Coupon Obligations.

10. Investors may be provided a reinvestment vehicle during the life of the Trust Series for reinvesting in a Fund's shares the distributions from the Trust that are derived from, or that are distributed along with, annual capital gains distributions by the Fund. All such reinvestments in the Fund will be made without imposition of the otherwise applicable sales load and at net asset value. Similarly, with respect to all Unitholders still holding Units at scheduled termination of the Trust Series and to the extent desired by such Unitholders, the Trust will transfer the registration of their proportionate number of Fund shares from the Trust to a registration in their names without imposing the otherwise applicable sales load. The Fund will also offer all such Unitholders the option of reinvesting the proceeds of the Zero-Coupon Obligations in Fund shares without the imposition of the otherwise applicable sales load. Proceeds from the Zero-Coupon Obligations will be paid in cash unless the Unitholders elects reinvestment.

11. Each of the existing Funds or portfolios thereof has adopted a Rule 12b–1 plan for the purpose of financing activities primarily intended to result in the sale of shares of such Fund or portfolio. Each plan provides for reimbursement to the distributor of a Fund or portfolio for expenditures made in connection with the sale of its shares. Maximum reimbursable amounts under the plans for the Funds or portfolios range from .15% to .30% per annum of average daily net assets.

12. Unitholders investing in the Government Securities Equity Trust Series I and subsequent series will pay a sales load in connection with the purchase of their units. Sales loads imposed on units of the Government Securities Equity Trust Series I will range from 2.00% to 5.25% of the public offering price of the units, with the actual amount imposed dependent upon the number of units purchased. Because the Sponsor will receive such sales loads in connection with the sale of Units, the Sponsor will rebate to the Trustee any Rule 12b–1 fees it receives on shares of the Funds held by the Trust. Any Rule 12b–1 fees so rebated will be distributed along with other income earned by the Trust. Such distributions, including amounts attributable to rebated Rule 12b–1 fees, will reflect deduction by the Trustee of *bona fide* Trust expenses. A similar rebate will be made with respect to any present or future Fund, regardless of the terms or method of payment of any Rule 12b–1 plan adopted by such Fund. Accordingly, no Trust Series and no Unitholders therein will, directly or indirectly, pay or otherwise bear any Rule 12b–1 fees with respect to Fund shares hald in such Trust Series. However, any Fund shares acquired directly by a Unitholder pursuant to any of the reinvestment options described above will be subject to Rule 12b–1 fees as are other shares held directly by investors.

13. Although not legally obligated to do so, the Sponsor intends to maintain a secondary market for the Units based on the aggregate bid side evaluation of the Zero-Coupon Obligations and the net asset value of the Fund shares, plus a sales load. The existence of a secondary market will reduce the number of Units tendered to the Trustee for redemption and thus alleviate the necessity of selling portfolio securities to raise the cash necessary to meet such redemptions. In the event that the Sponsor does not maintain a secondary market, the Trust Agreement will provide that the Sponsor will not instruct the Trustee to sell Zero-Coupon Obligations from any Trust Series until shares of the Fund have been liquidated in order not to impair the protection provided by the Zero-Coupon Obligations (unless the Sponsor is able to sell such Zero-Coupon Obligations and still maintain at least the original proportional relationship to Unit value), and, further, that Zero-Coupon Obligations may not be sold to meet Trust expenses. Moreover, Applicants have agreed to specific conditions restricting the Trustee's right to redeem Fund shares.

Applicants' Legal Conclusions

1. Applicants assert that section 12(d)(1) of the 1940 Act is intended to prevent the duplication of fees and costs, concentration of control, and other adverse consequences to investors incident to the pyramiding of investment companies. Applicants contend that their proposal is structured to eliminate such pyramiding of expenses and control problems and that the unit investment trust format is uniquely adaptable to avoiding such concerns. Shares of any Fund otherwise sold subject a front-end slaes charge will be sold at net asset value to each Trust Series and to the Unitholders in connection with reinvestments during the life of the Trust Series and upon maturity. Moreover, the evaluation fee for Fund shares held by a Trust Series will be waived. Finally, Applicants point out that because a unit investment trust has an unmanaged portfolio, there will be no duplicative advisory fees charged as there would be in the case where a managed mutual fund purchased shares of other mutual funds. Applicants assert that the costs and expenses of the administration and operation of the Trusts and the Funds will be reduced by the proposed arrangement. In support of this assertion and of their request for section 12(d)(1) relief generally, Applicants have provided an exhibit to the application analyzing the costs and benefits of the proposed arrangement.

2. In addition, Applicants have agreed as a condition that the Sponsor will rebate to each Trust the 12b–1 fees that otherwise would be imposed on Fund shares while such shares are held by a Trust Series. However, the 12b–1 fees will not be rebated with respect to Fund shares held directly by Unitholders as a result of any of the described reinvestment options. Unitholders who become direct shareholders would be in the same position as any other direct shareholders of the Fund and Applicants therefore believe that insulating them from Rule 12b–1 fees would effectively subsidize them in a way that would be unfair to other shareholders.

3. Applicants maintain that their proposal addresses potentially abusive control problems resulting from concentration of voting power in a fund holding company or from the threat of large-scale redemptions. Applicants have agreed as conditions to the order requested that the voting of shares of the Fund which are held by a Trust Series will be performed by the Trustee, and that the Trustee must vote all shares of a Fund held in a Trust Series in the same proportion as all other shares of that Fund, which are not held by the Trust, are voted. Applicants believe the threat of large-scale redemptions is alleviated by agreeing to conditions: (a) Permitting the Trustee to sell Fund shares only when necessary to meet redemption obligations or expenses; (b) limiting the amount of any one Fund's shares that may be deposited into a Trust; and (c) requiring Applicants to structure the Trusts' maturity dates at least 30 days apart from one another. In addition, the Trustee has no discretionary ability to demand redemption of a Fund's shares and may

do so only to meet redemption requests (and then only to the extent that the Sponsor does not purchase the Units in order to resell them in the secondary market) and to pay Trust expenses.

4. Applicants believe that because the Sponsor would deposit substantially more than $100,000 of Zero-Coupon Obligations and Fund shares in each Trust Series, Applicants will comply fully with section 14(a) of the 1940 Act. However, the Applicants recognize that section 14(a) has been interpreted to require that the initial capital investment in an investment company be made without any intention to dispose of the investment. Under this interpretation, a Trust Series would not satisfy section 14(a) because of the Sponsor's intention to sell all the Units thereof. Consequently, Applicants seek an exemption from section 14(a). To satisfy the objectives of section 14(a), Applicants have agreed that the creation and operation of each Trust will comply in all respects with the requirements of Rule 14a–3 under the 1940 Act, except that the Trust will not restrict its portfolio investments to "eligible trust securities."

5. Applicants state that the purposes of section 19(b) and Rule 19b–1 are to remove the temptation to realize capital gains on a frequent and regular basis, to eliminate attempts by investment advisers to time distributions to be advantageous to shareholders, and to prevent shareholder confusion created by a failure to distinguish between regular distributions of capital gains and distributions of investment income. While Applicants do not qualify for either exception to Rule 19b–1 provided in subsections (b) or (c) of that rule, they argue that the dangers of manipulation of capital gains and confusion between capital gains and regular income distributions do not exist in the Trust. Any gains from the redemption of Fund shares would be triggered by the need to meet Trust expenses or by requests to redeem Units, events over which the Sponsor and the Trust have no control. Cash generated from redemption of Fund shares will be used to pay expenses and redemptions and not to generate distributions to Unitholders. Although the Sponsor does have control over the actual redemption of Units to the extent it makes a market in Units, it has no incentive to redeem or permit the redemption of Units in order to generate capital gains for distributions to Unitholders. Moreover, because principal distributions are clearly indicated in accompanying reports to Unitholders as a return of principal and are relatively small in comparison to normal dividend distributions, there is little danger of confusion from failure to differentiate among distributions. Finally, any retention of capital gains until year-end would be to the detriment of the Unitholders. Based on these reasons, and because Applicants will comply in all other respects with section 19(b) and Rule 19b–1, Applicants believe that exemptive relief would be consistent with the purposes and policies of the 1940 Act and in the best interests of the Unitholders.

6. Applicants state that their proposal addresses potential section 17(d) and Rule 17d–1 concerns. There will be no duplication of sales charges with respect to the Fund shares and Units because Fund shares will be sold at net asset value. Moreover, there will be no overlapping of management or evaluation fees. Therefore, Applicants believe that neither the Funds nor any Trust Series will be disadvantaged by the arrangement and each stands to gain significant benefits from the proposed transaction. Accordingly, Applicants conclude that the proposed arrangement is consistent with the provisions, policies and purposes of the 1940 Act and participation by each registered investment company is not on a basis different from or less advantageous than that of other participants.

Applicants' Conditions

(a) The Trustee will not redeem Fund shares except to the extent necessary to meet redemptions of Units by Unitholders, or to pay Trust expenses should distributions received on Fund shares prove insufficient to cover such expenses.

(b) Any Rule 12b–1 fees received by the Sponsor in connection with the distribution of Fund shares to the Trust will be rebated to the Trustee.

(c) Applicants will comply with Rule 12b–1 as currently adopted and as it may be modified.

(d) No one Series of the Trust will, at the time of any deposit of any Fund shares, hold as a result of that deposit, more than 10% of the then-outstanding shares of a Fund.

(e) All Trust Series will be structured so that their maturity dates will be at least thirty days apart from one another.

(f) Applicants will comply in all respects with the requirements of Rule 14a–3, except that the Trust will not restrict its portfolio investments to "eligible trust securities."

(g) Shares of a Fund which are held by a Series of the Trust will be voted by the Trustee of the Trust, and the Trustee will vote all shares of a Fund held in a Trust Series in the same proportion as all other shares of that Fund not held by the Trust are voted.

(h) Applicants agree that no shares of any Fund that has established more than one class of shares will be deposited in any Trust Series, and that no Fund, shares of which have been deposited in any Trust Series, will thereafter establish additional classes of shares.

If any Fund in the future imposes any deferred sales charge, Applicants will comply with the following additional conditions:

(a) Applicants agree to comply with Rule 22d–1 as adopted and as it may be modified.

(b) Applicants agree to comply with proposed Rule 6c–10 as proposed, adopted, and as it may be modified.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 89–9369 Filed 4–18–89; 8:45 am]

BILLING CODE 8010–01–M

[FILE No. 22–19126]

MCorp and MCorp Financial Inc.; Application and Opportunity for Hearing

Notice if hereby given that MCorp and MCorp Financial, Inc. (the "Applicants") have filed and application pursuant to clause (ii) of section(b)(1) of the Trust Indenture Act of 1939 (the "Act")for a finding by the Securities and Exchange Commission (the "Commission") that the successor trusteeship of Morgan Guaranty Trust Company of New York ("Morgan") under three indentures of the Applicants, which are qualified under the Act, and the trusteeships of Morgan under two other indentures of the Applicants, which are qualified under the Act, is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Morgan from acting as trustee under any of such indentures.

Section 310(b) of the Act provides in part that if a trustee under an indenture qualified under the act has or shall acquire any conflicting interest (as defined in the section), it shall, within 90 days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign. Subsection (1) of such section provides, in effect, that with certain exceptions, a trustee under a qualified indenture shall be deemed to have a conflicting interest if such trustee is trustee under another indenture under which any other

securities of the same obligor are outstanding. However, under clause (ii) of subsection (1), there shall be excluded from the operation of this provision another indenture under which other securities of the obligor are outstanding if the issuer shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing, that trusteeship under such qualified indenture and such other indenture is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as trustee under either of such indentures.

The Applicants allege that:

1. The Applicants had outstanding as of December 8, 1988, $35,000,000 of their Floating Rates Notes Due 1999 the ("1999 Notes") issued under an indenture dated as of March 15, 1979 (the "Original 1979 Indenture"), between Merchantile Texas Corportation (now MCorp) and First National Bank in Dallas, as Trustee (a predecessor of NCNB Texas National Bank, a national banking association ("NCNB Texas")), which was heretofore qualified under the Act and which was supplemented by a Supplemental Indenture dated as of October 10, 1984 (the "1979 Supplement") pursuant to which MCorp Financial, Inc. ("Financial") and MCorp became jointly and severally liable for the obligations of MCorp under the Original 1979 and the 1999 Notes (the Original 1979 Indenture and the 1979 Supplement are hereinafter collectively called the "1979 Indenture"). The 1999 Notes were registered under the Securities Act of 1933.

2. The Applicants has outstanding as of December 8, 1988, $50,000,000 of their 11½% Notes Due December 15, 1989 and $25,000,000 of their 10⅝% Notes Due 1993 (the "November 15, 1982 Notes") issued under an indenture dated as of November 15, 1982 (the "Original November 15, 1982 Indenture") between Mercantile Texas Corporation (now MCorp) and Interfirst Bank Dallas, N.A., as Trustee, (a predecessor of NCNB Texas) which was heretofore qualified under the Act and which was supplemented by a Supplemental Indenture dated as of October 10, 1984 (the "November 15, 1982 Supplement") pursuant to which MCorp and Financial became jointly and severally liable for the obligations of MCorp under the Original November 15, 1982 Indenture and the November 15, 1982 Notes (the Original November 15, 1982 Indenture and the November 15, 1982 Supplement hereinafter collectively called the "November 15, 1982 Indenture"). The 11½% Notes Due December 15, 1989 and the 10⅝% Notes Due 1993 were registered under the Securities Act of 1933.

3. The Applicants had outstanding as of December 8, 1988, $33,950,000 of their Medium-Term Notes, Series A and $100,000,000 of their Floating Rate Notes Due 1992 (the "1985 Notes") issued under an indenture dated as of June 15, 1985 (the "1985 Indenture") among the Applicants and Interfirst Bank Dallas, heretofore qualified under the Act. The Medium-Term Notes, Series A and the floating Rate Notes Due 1992 were registered under the Securities Act of 1933.

4. The Applicants had outstanding as of December 8, 1988, $31,860,000 of their 9⅜% Sinking Fund Debentures Due 2001 (the "1976 Debentures") issued under an indenture dated as of July 1, 1976 (the Original 1976 Indenture") between Southwest Bancshares, Inc. ("Southwest"), a predecessor of Financial, and Morgan, as Trustee, which was heretofore qualified under the Act and which was supplemented by a Supplemental Indenture dated as of October 10, 1984 (the "1976 Supplement") pursuant to which Financial and MCorp became jointly and severally liable for the payment obligations of Southwest and Financial became liable for all obligations of Southwest under the Original 1876 Indenture and the 1976 Debentures (the Original 1976 Indenture and the 1976 Supplement are hereinafter collectively called the "1976 Indenture"). The 1976 Debentures were registered under the Securitis Act of 1933.

5. The Applicants had outstanding as of December 8, 1988, $50,000,000 of their 11½% Notes Due 1992 (the "November 1, 1982 Notes") issued under an indenture dated as of November 1, 1982 (the "Original November 1, 1982 Indenture") between Southwest, a predecessor of Financial, and Morgan, as Trustee, which was heretofore qualified under the Act and which was supplemented by a Supplemental Indenture dated as of October 10, 1984 (the "November 1, 1982 Supplement" pursuant to which Financial and MCorp became jointly and severally liable for the obligations of Southwest under the Original November 1, 1982 Indenture and the November 1, 1982 Notes (the Original November 1, 1982 Indenture and the November 1, 1982 Supplement are hereinafter collectively called the "November 1, 1982 Indenture"). The November 1, 1982 Notes were registered under the Securities Act of 1933.

6. NCNB Texas became successor trustee under the terms of the 1979 Indenture, the November 15, 1982 Indenture and the 1985 Indenture upon its acquisition of substantially all of the trust business of First RepublicBank Dallas, N.A., which had been the successor trustee to InterFirst Bank Dallas, N.A. NCNB Texas has resigned as the trustee under the 1979 Indenture, the November 15, 1982 and the 1985 Indenture. The Applicants have approved the appointment of Morgan as successor trustee under the 1979 Indenture, the November 15, 1982 Indenture and the 1985 Indenture by Board Resolutions dated November 17, 1988 and December 20, 1988, effective upon execution of the respective instrucments of resignation and acceptance.

7. Morgan's successor trusteeship under the 1979 Indenture and trusteeship under the November 1, 1982 Indenture are permitted by section 808 of the 1979 Indenture because both indentures are wholly unsecured and the November 1, 1982 Indenture was qualified after the date of the 1979 Indenture. Morgan's trusteeship under the 1976 Indenture and successor trusteeships under the 1979 Indenture, the November 15, 1982 Indenture and the 1985 Indenture are permitted by section 8.08 of the 1976 Indenture because all said indentures are wholly unsecured and the 1979 Indenture, the November 15, 1982 Indenture and the 1985 Indenture were qualified after the date of the 1976 Indenture. Morgan's trusteeship under the 1985 Indenture and the November 1, 1982 Indenture and successor trusteeships under the November 15, 1982 Indenture and the 1985 Indenture are permitted by section 8.08 of the November 1, 1982 Indenture because all said indentures are wholly unsecured and the November 15, 1982 Indenture and 1985 Indenture were qualified after the date of the November 1, 1982 Indenture.

Morgan's successor trusteeship under the 1979 Indenture as well as its successor trusteeships under the November 15, 1982 and the 1985 Indenture are permitted by section 808 of the 1979 Indenture because each indenture is wholly unsecured and the November 15, 1982 Indenture and the 1985 Indenture were qualified after the date of the 1979 Indenture. Morgan's successor trusteeship under the 1985 Indenture is permitted by section 608 of the November 15, 1982 Indenture because the 1985 Indenture and the November 15, 1982 Indenture are wholly unsecured and the 1985 Indenture was qualified after the date of the November 15, 1982 Indenture. Morgan's successor trusteeship under the November 15, 1982

Indenture, as well as its successor trusteeship under the 1979 Indenture is permitted by section 608 of the November 15, 1982 Indenture because that section specifically excludes the 1979 Indenture and the November 15, 1982 Indenture is permitted by section 608 of the 1985 Indenture because that section specifically excludes the 1979 Indenture and the November 15, 1982 Indenture from the operation of the disabling paragraph of that Section.

8. Morgan's trusteeship under the 1979 Indenture and the November 1, 1982 Indenture will constitute a conflicting interest with its successor trusteeship under the November 15, 1982 Indenture and the 1985 Indenture after 90 days from the date of Morgan's appointment and acceptance of the successor trusteeship under the November 15, 1982 Indenture and the 1985 Indenture, Morgan's trusteeship under the 1976 Indenture will constitute a conflicting interest with its successor trusteeship under the 1976 Indenture after 90 days from the date of Morgan's appointment and acceptance of the successor trusteeship under the 1979 Indenture, and Morgan's successor trusteeship under the 1979 Indenture will constitute a conflicting interest under the November 1, 1982 Indenture after 90 days from the date of Morgan's appointment and acceptance of the successor trusteeship under the 1979 Indenture, unless, in accordance with section 608(c)(1)(ii) of the November 15, 1982 Indenture and the 1985 Indenture, section 808(c)(1)(ii) of the 1979 Indenture and section 8.08(c)(1)(ii) of the November 1, 1982 Indenture, the Commission determines that the trusteeship under the 1976 Indenture, the 1979 Indenture, the November 1, 1982 Indenture, the November 15, 1982 Indenture and the 1985 Indenture (collectively, the "Indentures") are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Morgan from acting as trustee under any of the Indentures.

9. All of the indentures are in default as indicated in the application. The Applicants' obligations in respect of the 1999 Notes, the November 15, 1982 Notes, the 1985 Notes, the 1976 Debentures and the November 1, 1982 Notes are wholly unsecured and rank *pari passu inter se*. There are no material differences among the provisions of the Indentures relating to the covenants of the Applicants which apply to the future, except the aggregate principal amounts, dates of issue, maturity and interest payment dates, interest rates, redemption prices and sinking fund provisions.

10. Such differences as exist among the Indentures are not so likely to involve a material conflict of interest as to make it necessary in the public interest of for the protection of investors to disqualify Morgan from acting as successor trustee under any of the Indentures.

The Applicants have waived notice of hearing, any right to a hearing on the issues raised by the application and all rights to specify procedures under Rule 8(b) of the Commission's Rules of Practice.

For a more detailed account of the matters of fact and law asserted, all persons are referred to said application which is a public document on file in the offices of the Commission at the Public Reference Section, 450 Fifth Street NW., Washington, DC 20549.

NOTICE IS FURTHER GIVEN that any interested person may, not later than May 8, 1989, request in writing that a hearing be held on such matter stating the nature of his interest, the reasons for such request and the issues of law or fact raised by such application which he desires to controvert, or he may request that he be notified if the Commission orders a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. At any time after such date, the Commission may issue an order granting the application, upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and for the protection of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

Jonathan G. Katz,

Secretary

[FR Doc. 89-9367 Filed 4-18-89; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-16914; 812-7036]

Merrill Lynch KECALP L.P. 1986, et al.; Application

April 12, 1989.

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

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

Applicants: Merrill Lynch KECALP L.P. 1986 ("1986 Partnership"), Merrill Lynch KECALP L.P. 1987 ("1987 Partnership") (together, "Partnerships"), Merrill Lynch Interfunding Inc. ("MLIF") and KECALP Inc. ("KECALP").

Relevant 1940 Act Sections: Exemption requested under section 17(b) from the provisions of section 17(a).

Summary of Application: Applicants seek an order relating to the acquisition by the 1986 Partnership of certain securities of Prince Holdings, Inc. from KECALP and the acquisition by the 1987 Partnership of certain securities of John Alden Financial Corporation from MLIF, KECALP and MLIF being in each case an "affiliated person," as defined in the 1940 Act, of the respective Partnership.

Filing Date: The application was filed on May 17, 1988, and amended on July 27, 1988 and April 5, 1989.

Hearing or Notification of Hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m. on May 9, 1989. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicants with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit, or, for attorneys, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street, Washington, DC 20549. Applicants, 1986 Partnership, 1987 Partnership, MLIF and KECALP, World Financial Center, North Tower, New York, New York 10281.

FOR FURTHER INFORMATION CONTACT: Staff Attorney Cathey Baker (202) 272-3033 or Branch Chief Karen L. Skidmore (202) 272-3023 (Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier (800) 231-3282 (in Maryland (301) 252-4300).

Applicants' Representations

1. The Partnerships, limited partnerships organized under Delaware law, are non-diversified, closed-end management investment companies registered under the 1940 Act. The investment objective of each Partnership to seek long-term capital appreciation. Each Partnership is an "employees' securities company" within the meaning of section 2(a)(13) of the 1940 Act, and operates in accordance with the terms of

an exemptive order issued pursuant to section 6(b) of the 1940 Act (Investment Company Act Release No. 12363; April 8, 1982) ("KECALP Exemptive Order"). The general partner for each Partnership is KECALP, a Delaware corporation and wholly-owned subsidiary of Merrill Lynch & Co. ("ML & Co."). KECALP is responsible for managing and making investment decisions for the Partnerships. MLIF, a Delaware corporation engaged in commercial financing transactions, is an indirect subsidiary of ML & Co., a holding company which, through its subsidiaries, provides investment, financing, real estate, insurance and related services.

Investment in Prince Holdings, Inc.

2. Merrill Lynch Capital Markets ("MLCM") is an unincorporated group within Merrill Lynch, Pierce, Fenner & Smith ("MLPF&S"), the principal subsidiary of ML & Co. MLCM conducts the investment banking and underwriting activities of MLPF&S. On behalf of Brentwood Associates, a California-based investment partnership, MLCM structured a leveraged buyout during 1987 of Prince Manufacturing, Inc. ("PMI"), a company engaged in the manufacture and sale of tennis racquets and related tennis products. As a result of the transactions involved in the leveraged buyout, Prince Holdings, Inc. ("Prince"), a corporation organized solely for the purpose of effecting the leveraged buyout, acquired the securities of PMI. The equity securities of Prince were purchased by members of Prince's management, ML & Co., and certain other institutional investors not affiliated with ML & Co. or its subsidiaries. Following complete implementation of the buyout, PMI was merged into Prince. ML & Co.'s ownership of Prince's Series A convertible Preferred Stock ("Prince Stock") represented 5% of the outstanding shares, on a fully-diluted basis.

3. The investment opportunity in Prince Stock was brought to the attention of KECALP during October, 1987. After evaluation of the investment, KECALP determined to purchase 125,000 shares of Prince Stock from ML & Co. for the 1986 Partnership. KECALP approved the 1986 Partnership's purchase of the investment on October 6, 1987. Because the 1986 Partnership could not purchase such an investment from ML & Co. directly, KECALP agreed to purchase the Prince Stock on behalf of the 1986 Partnership and to sell the stock to the 1986 Partnership following receipt of the order requested. On December 17, 1987, KECALP acquired 125,000 shares of Prince Stock at $1 per share. The amount of shares purchased represented less than 2% of Prince Stock outstanding on a fully-diluted basis. No dividends have been declared on such stock.

Investment in John Alden Financial Corporation

4. During 1987, MLCM, together with The John Alden Group's management and General Electric Credit Corporation, structured a leveraged buyout of The John Alden Group, a diversified insurance company comprised of John Alden Life Insurance Company, Aristar Capital Corporation, John Alden Life Insurance Company of New York and Houston National Life Insurance Company. As a result of the transactions involved in the leveraged buyout, John Alden Financial Corporation ("JAFC"), a corporation organized for the sole purpose of facilitating the leveraged buyout, acquired the outstanding common stock of The John Alden Group through a merger transaction. The common stock of JAFC ("JAFC Common") is owned by Merrill Lynch Capital Partners, Inc. ("MLCP"), a wholly-owned subsidiary of ML & Co., MLIF, certain members of John Alden Group's management, General Electric Credit Corporation, Employers Reinsurance Corporation and Kidder Peabody & Co., Inc. The Series B Participating Preferred Stock of JAFC ("JAFC Preferred") is owned by MLIF and MLCP. Following full implementation of the leveraged buyout, John Alden Group was merged into JAFC.

5. On October 30, 1987, MLIF purchased 10,816 shares of JAFC Preferred and 3,205 shares of JAFC Common, each at $100 per share. Shares purchased represented 6.7% and 2.7%, respectively, of the outstanding shares of JAFC Preferred and JAFC Common on a fully-diluted basis.

6. MLIF has agreed to sell to the 1987 Partnership up to 3,579 shares of JAFC Preferred and up to 1,060 shares of JAFC Common. Such amounts represent 0.022% and 0.008% of the outstanding shares, respectively, on a fully-diluted basis. No dividends have been declared on such stocks.

7. The purchase price to be paid by the 1986 Partnership to KECALP for the shares of Prince Stock and by the 1987 Partnership to MLIF for the shares of JAFC Preferred and JAFC Common will in each case be the lower of (i) the value of the investment on the date it is acquired by the Partnership (as determined in good faith by the KECALP Board of Directors) or (ii) the cost to the affiliated person of purchasing and holding the investment for the Partnership. The Partnerships will not pay any carrying costs in respect of the period prior to the later of (1) the date of acquisition of the securities by the affiliated person or (2) the date KECALP approved the Partnership's purchase of the proposed investment. With respect to clause (ii), such cost shall be the original purchase price paid for the securities, plus carrying costs related to the investment. For purposes of these transactions, carrying costs consist of interest charges computed at the lower of (i) the prime commercial lending rate charged by Citibank, N.A. during the period from the date KECALP approved the Partnership's purchase of the investment until the Partnership acquires the investment or (ii) the effective cost of borrowings by ML & Co. during such period. The effective cost of borrowings by ML & Co. is its actual "Average Cost of Funds," which it calculates on a monthly basis by dividing its consolidated financing expenses by the total amount of borrowings during this period.

Applicants' Legal Conclusions

8. As a result of affiliations, sales of securities on a principal basis by KECALP and MLIF to a Partnerships are prohibited by section 17 and cannot be effected unless exemptive relief is obtained under section 17(b). The statutory standards with respect to the relief requested under section 17(b) are satisfied. Relief is justified both by the terms of the transactions and the fact that the proposed investments are not otherwise available to the Partnerships. With respect to the terms of the transactions, KECALP has reviewed the proposed investments in detail. The members of the KECALP Board of Directors are sophisticated and experienced in valuing securities and in evaluating financial transactions generally. In this regard, KECALP considered all information deemed relevant, including the nature of the investments, the nature of the investments by affiliates of ML & Co., and the fairness of the purchase prices proposed to be paid by the Partnerships. The KECALP Board of Directors determined that the proposed investments by the Partnerships will not directly or indirectly benefit entities affiliated with ML & Co. or its subsidiaries which have also acquired investments in Prince and JAFC. Moreover, the KECALP Board approved the Partnerships' investments in Prince and JAFC after consideration of each of the factors set forth in section 17(b) of the 1940 Act.

9. In evaluating the terms of the transactions, the KECALP Board

considered the fact that the proposed purchase prices to be paid by the Partnerships will include carrying costs incurred by an affiliated person if the value of the investment at the time of acquisition by the relevant Partnership is more than the sum of the purchase price plus the affiliate's carrying costs. In approving purchase prices which may include carrying costs, the KECALP Board of Directors recognized that KECALP receives no compensation for serving as general partner of the Partnerships and that ML & Co. has incurred considerable expenses in organizing the Partnerships. The Partnerships believe that it is appropriate to reimburse affiliates for carrying costs in a situation where the affiliate effectively purchases an investment as a Partnership's nominee and the Partnership would have purchased such investment directly, had it not been deemed necessary to obtain the relief requested. In light of these factors, the KECALP Board believes it is wholly appropriate for the purchase price paid for portfolio investments to reflect carrying costs, provided that the value of the investments at the time of acquisition exeeds the amount of the purchase price, plus carrying costs. The Applicants submit that to deny reimbursement for carrying costs would result in a further and unwarranted loss to KECALP and MLIF and would provide a disincentive to act on behalf of the Partnerships in future transactions of this type.

10. With respect to the 1986 Partnership's acquisition of Prince Stock, the Applicants believe that the 1986 Partnership is adequately protected from any conflicts of interest which may inhere in KECALP's sale of the investment at a value which KECALP will determine under the purchase price formula. KECALP was selected as nominee for the 1986 Partnership's investment in Prince, and is expected to serve as primary nominee for the KECALP Partnerships in the future, for the following reasons. Because exemptive relief is generally required for investments by KECALP Partnerships, ML & Co. or one of its affiliates typically acquires and holds an investment on behalf of a KECALP Partnership until the Commission issues an order permitting the purchase. Various problems can arise under this arrangement. First, a nominee must maintain certain records concerning the investment held for the KECALP Partnership, such as records of carrying costs and of any distributions received from or payments required to be made to the portfolio company under the terms of the arrangement. Second, a delay in obtaining exemptive relief may affect the periodic financial reports of the nominee. Such reports, which are intended to reflect the results of operations of ML & Co. and its operating subsidiaries, may be distorted by capital transactions which are attributable to investments on behalf of a KECALP Partnership or borrowings in connection with the investments. Third, the purchase price formula places the risk that the investment will decline in value upon the nominee, rather than the KECALP Partnership. Because KECALP is not intended to function as a profit center within the ML & Co. complex, its selection as nominee alleviates such problems. The Applicants also believe that the special nature of the KECALP Partnerships as employees' securities companies, KECALP's relationship to the Partnerships and its fiduciary duty to the Partnerships provide adequate protection with respect to KECALP's valuation of an investment which it has purchased as nominee for a Partnership. First, the KECALP Board of Directors is principally composed of individuals who represent senior management of various direct and indirect subsidiaries of ML & Co. Most of these individuals are also investors in the 1986 Partnership. Second, KECALP receives no fee per se for its services to the KECALP Partnerships, and the relative profits or losses of KECALP do not affect the compensation received by its Directors. The 1986 Partnership reimburses KECALP for related operating expenses in amounts of up to 1% of the limited partners' capital contributions. Expenses not reimbursed are deemed a capital contribution to the 1986 Partnership. In addition, KECALP is entitled to a 1% interest in all items of the 1986 Partnership's income, gain, deduction, loss and credit, for which it has no obligation to make a cash capital contribution. Thus, to the extent that KECALP has a financial interest in the operations of the 1986 Partnership, its interest is generally the same as that of the limited partners. Lastly, KECALP is under a fiduciary duty to value investments under the purchase price formula in the best interests of the 1986 Partnership. The Applicants submit that the existing fiduciary responsibilities of KECALP, together with the considerations discussed above, are adequate to provide protection to the 1986 Partnership with respect to the valuation of the investment in Prince.

11. The Applicants also state that the investments are not otherwise available for purchase by the Partnerships. The KECALP Board has approved such investments after review of a considerable number of possible investments for the Partnerships. The Partnerships state that their respective investment programs will be prejudiced if they are not permitted to make the investments proposed in this Application.

12. The Board of Directors of KECALP believes that the proposed investments are consistent with the rationale underlying the establishment of each of the Partnerships as an "employees' securities company." It was indicated in the application for exemptive relief granted in the KECALP Exemptive Order, as well as in the prospectuses of the Partnerships, that ML & Co. and its affiliates would be involved in structuring, identifying and investing in many of the Partnerships' portfolio investments. The Partnerships state that the relief requested herein is thus consistent with their purposes and stated policies.

Applicants' Conditions

If the requested order is granted, Applicants agree to the following conditions:

1. The investments in Prince and JAFC will be acquired by the Partnerships in the manner and on the terms described above.

2. In connection with the deliberations and determinations by the KECALP Board of Directors regarding the Partnerships' proposed Prince and JAFC transactions, appropriate record-keeping will be maintained and made available for inspection by the Commission and by the limited partners of the Partnerships in accordance with the KECALP Exemptive Order and the 1940 Act.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 89-9368 Filed 4-18-89; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 35-24864]

Filings Under the Public Utility Holding Company Act of 1935 ("Act")

April 13, 1989.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested

persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by May 8, 1989 to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

The Potomac Edison Company (70–7617)

The Potomac Edison Company ("PE"), a subsidiary of Allegheny Power System, Inc., a registered holding company, has filed an application pursuant to Sections 9(a) and 10 of the Act.

PE, in the ordinary course of its business, has developed a considerable expertise in respect of the design, construction, operation and maintenance of all forms of transmission and distribution facilities incidental or necessary to the conduct of its business as an electric utility. The Light Department of the City of Hagerstown (Hagerstown Light), a Maryland municipal corporation, has requested that PE furnish consulting engineering and technical services for the design of a 34.5-kv subtransmission line between two of the Hagerstown Light's substations. PE hereby requests authority to perform the construction design services agreement with Hagerstown Light.

PE intends to provide such services through utilization of its own personnel and facilities. Should personnel, facilities or services from Allegheny Power Service Corporation ("APSC") be required, PE will reimburse APSC in accordance with Rules 90 and 91 under the Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 89–9374 Filed 4–18–89; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–16917; 812–7269]

Putnam California Tax Exempt Money Market Fund et al.; Application

April 13, 1989.

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

ACTION: Notice of Application for Approval under the Investment Company Act of 1940 ("1940 Act").

Applicants: Putnam California Tax Exempt Money Market Fund, Putnam Daily Dividend Trust, Putnam New York Tax Exempt Money Market Fund, Putnam Tax Exempt Money Market Fund, Depositors Investment Trust (collectively the "Trusts") The Putnam Management Company, Inc. (the "Manager"), and Putnam Financial Services, Inc. (the "Distributor").

Relevant 1940 Act Section: Order requested under section 11(a) of the 1940 Act.

Summary of Application: Applicants seek an order approving certain offers of exchange, involving securities of registered open-end investment companies, on a basis other than relative net asset value.

Filing Date: The application was filed on March 13, 1989 and was amended on April 6, 1989. An additional amendment, the content of which is contained in a letter to the staff of the Commission dated April 12, 1989, and the substance of which is included herein, will be filed during the notice period.

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 on the application, or ask to be notified if a hearing is ordered. Any request should be in writing and should be received by the SEC by 5:30 p.m., on May 10, 1989. A request for a hearing should state the nature of the requestor's interest, the reason for the request, and the issues contested. Any person requesting a hearing should serve Applicants with a copy of the request, either personally or by mail. The hearing request should then be sent to the Secretary of the SEC, together with proof of service on the Applicant in the form of an affidavit or, for lawyers, a certificate of service. A request for notification of the date of a hearing may be made by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street NW., Washington, DC 20549. Applicants, One Post Office Square, Boston, Massachusetts 02109.

FOR FURTHER INFORMATION CONTACT: Jeremy N. Rubenstein, Staff Attorney, at (202) 272–2847, or Stephanie M. Monaco, Branch Chief, at (202) 272–3030 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is available for a fee by either going to the SEC's Public Reference Branch or contacting the SEC's commercial copier at (800) 231–3282 (in Maryland (301) 258–4300).

Applicants' Representations

1. Each of the Trusts is a Massachusetts business trust, registered under the 1940 Act as an open-end management investment company, which offers its shares under a currently effective registration statement under the Securities Act of 1933. The Manager serves as the investment adviser of each Trust, and the Distributor serves as the distributor of the shares of each Trust. The Manager and the Distributor are wholly owned subsidiaries of The Putnam Companies, Inc.

2. With one exception, shares of the Trusts are sold at net asset value without the imposition of a sales load. The application does not seek approval of any exchange involving shares of a Trust sold subject to a sales load. In the future, the Manager may serve as investment adviser to, and the Distributor may serve as the distributor for, additional funds which offer shares without a sales load. Applicants request that any order granted apply to such additional funds, on the condition that such additional funds offer their shares without a sales load and have an exchange program substantially identical to that of the Trusts.

3. Since its organization, each Trust has informed investors that shareholders may redeem their shares and invest the proceeds in shares of other Putnam funds at the public offering price, including any applicable sales charge. Applicants seek approval, under section 11(a) of the 1940 Act, of offers to exchange Trust shares purchased without the imposition of a sales load for shares of certain other Putnam funds which charge a sales load (the "Load Funds").

4. Investors that exchange shares of a Trust for shares of the Load Funds are

treated no differently than any other purchaser of Load Fund shares, except that the Trusts' shareholder servicing agent facilitates the transaction by applying the redemption proceeds to the purchase of Load Fund shares. Any rights of accumulation, letters of intent or similar discount purchase opportunities as described in the Load Fund's prospectus will be considered in determining the applicable sales load. All waivers of sales loads set forth in the prospectuses for the Load Funds will apply to such transactions. Each such investment will be subject to the minimum investment requirements applicable to the shares of the Load Fund which are to be acquired. Shareholders who request such an exchange will receive a prospectus of the applicable Load Fund.

5. The exchange privilege is described in the prospectus of each Trust and will be described in the prospectus of each fund that offers the exchange privilege in the future. Certain additional information concerning the exchange privilege is included in the statement of additional information, which is incorporated by reference into each Trust's prospectus. If any Trust were to modify or terminate the exchange privilege, such Trust would provide shareholders a minimum of 60 days' written notice and such modification (but not termination) would be described in an amendment to the relief requested in the application. The Trusts currently charge a nominal administrative charge in connection with each exchange ($5.00 or such greater amount as the Commission or Staff may permit) and reserve the right to discontinue or reduce the administrative charge without amendment to the relief requested in the application. Any administrative charge will be uniformly applied. The Trusts do not impose any redemption fee, as that term is defined in revised proposed Rule 11a–3 under the 1940 Act, in connection with any exchange.

6. The purpose of the exchange program described above is to permit simultaneous, voluntary redemption and purchase transactions. The transactions involve a redemption of a Trust's shares, followed immediately by the use of the proceeds for the purchase of shares of a Load Fund. Instead of requiring that (a) the proceeds from the redemption of a Trust's shares be remitted to the redeeming shareholder and (b) those same proceeds be retransmitted to the Load Fund by the same shareholder—a process that can result in a number of days' delay—the program permits both transactions to be accomplished at the same time, thereby satisfying the shareholder's desire for prompt execution or orders and avoiding a period of time during which the redemption proceeds would be uninvested.

7. Applicants acknowledge that the requested order would be prospective in nature and that Applicants can not rely on any such order as authority for any exchange that occurred prior to the date of such order.

Applicants' Conditions

Applicants agree that the following may be made conditions to the proposed relief:

1. The exchange offers must be within the same group of investment companies, which includes any two or more registered open-end investment companies that have the same investment adviser or principal underwriter (as each term is defined in the 1940 Act) and hold themselves out to investors as related companies for purposes of investment and investor services.

2. The prospectuses of the Trusts must disclose any administrative fees that may be imposed on an exchange transaction. If any Trust were to modify or terminate the exchange privilege, such Trust would provide shareholders a minimum of 60 days' written notice and such modification (but not termination) would be described in an amendment to the relief requested in the application. The Trusts currently charge a nominal administrative fee in connection with each exchange ($5.00 or such greater amount as the Commission or the Staff may permit) and reserve the right to discontinue or reduce the administrative charge without amendment to the relief requested in the application. Any such administrative charge will be uniformly applied.

3. Any sales literature or advertising that describes the exchange offer must disclose the administrative fee, if any is imposed.

4. The Applicants will comply with the provisions of proposed Rule 11a–3 under the 1940 Act, as it is currently proposed, and as it may be reproposed, adopted or amended.

5. Reductions in the sales load of any of the Load Funds will be in accordance with the provisions of Rule 22d–1 under the Act.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 89–9370 Filed 4–18–89; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD1 89–019]

New York Harbor Traffic Management Advisory Committee; Meeting

AGENCY: Coast Guard, DOT.

ACTION: Notice of meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. I), notice is hereby given of a meeting of the New York Harbor Traffic Management Advisory Committee to be held on May 11, 1989, in the Conference Room, second floor, U.S. Coast Guard Marine Inspection Office, Battery Park, New York, New York, beginning at 10:00 a.m.

The agenda for this meeting of the New York Harbor Traffic Management Advisory Committee is as follows:

1. Introductions.
2. Update Kill Van Kull Dredging Project, proposed new navigation rules.
3. Anchorage statistics.
4. Continuation of the committee.
5. Topics from the floor.
6. Review of agenda topics and selection of date for next meeting.

The New York Harbor Traffic Management Advisory Committee has been established by Commander, First Coast Guard District to provide information, consultation, and advice with regard to port development, maritime trade, port traffic, and other maritime interests in the harbor. Members of the Committee serve voluntarily without compensation from the Federal Government.

Attendance is open to the interested public. With advance notice to the Chairperson, members of the public may make oral statements at the meeting. Persons wishing to present oral statements should so notify the Executive Director no later than the day before the meeting. Any member of the public may present a written statement to the Committee at any time.

FOR FURTHER INFORMATION CONTACT: Lieutentant Commander L. Brooks, USCG, Executive Secretary, NY Harbor Traffic Management Advisory Committee, Port Safety Office, Building 109, Governors Island, New York, NY 10004; or by calling (212) 668–7834.

Dated: April 10, 1989.

R. I. Rybacki,

Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.

[FR Doc. 89–9327 Filed 4–18–89; 8:45 am]

BILLING CODE 4910–14–M

Sunshine Act Meetings

Federal Register
Vol. 54, No. 74
Wednesday, April 19, 1989

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

NATIONAL TRANSPORTATION SAFETY BOARD

TIME AND DATE: 9:30 a.m. Tuesday, April 25, 1989.

PLACE: Board Room, Eighth Floor, 800 Independence Avenue, SW., Washington, DC 20594.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Highway Accident Summary Reports: Involving Intercity Type Buses Chartered for Service to Atlantic City, Little Egg Harbor Township, New Jersey, July 23, 1988, and Tinton Falls, New Jersey, November 29, 1988.

2. Recommendations to FAA: Special Investigation of Operational Error at Coast TRACON involving British Airways Flight 282 and American Airlines Flight 1261.

FOR MORE INFORMATION CONTACT: Bea Hardesty, (202) 382-6525.

Bea Hardesty,

Federal Register Liaison Officer.

April 14, 1989.

[FR Doc. 89-9458 Filed 4-17-89; 8:58 am]

BILLING CODE 7533-01-M

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meeting during the week of April 17, 1989.

A closed meeting will be held on Tuesday, April 18, 1989, at 2:30 p.m.

The Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A) and (10) and 17 CFR 200.402(a) (4), (8), (9)(i) and (10), permit consideratin of the scheduled matters at a closed meeting.

Commissioner Schapiro, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matter of the closed meeting scheduled for Tuesday, April 18, 1989, at 2:30 p.m., will be:

Settlement of injunctive actions.
Institution of administrative proceedings of an enforcement nature.
Settlement of administrative proceedings of an enforcement nature.
Institution of injunctive actions.
Formal order of investigation.
Opinions.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Karen Burgess at (202) 272-2000.

Jonathan G. Katz,

Secretary.

April 14, 1989.

[FR Doc. 89-9530 Filed 4-14-89; 1:38 p.m.]

BILLING CODE 8010-01-M

Corrections

Federal Register
Vol. 54, No. 74
Wednesday, April 19, 1989

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP89-132-000]

El Paso Natural Gas Co.; Update Tariff Filing

Correction

In notice document 89-8676 appearing on page 14845 in the issue of Thursday, April 13, 1989, in the heading, the docket number was omitted and should appear as set forth above.

BILLING CODE 1505-01-D

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP89-121-000]

West Texas Gathering Co.; Proposed Changes in FERC Gas Tariff

Correction

In notice document 89-8710 appearing on page 14857 in the issue of Thursday, April 13, 1989, in the heading, the docket number was incorrect and should appear as set forth above.

BILLING CODE 1505-01-D

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. 89-127-000]

ANR Pipeline Co.; Proposed Changes in FERC Gas Tariff

Correction

In notice document 89-8669 appearing on page 14842 in the issue of Thursday, April 13, 1989, in the heading, the docket number was incorrect and should appear as set forth above.

BILLING CODE 1505-01-D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 186

[FAP 7H5532/R999; FRL-3543-5]

Pesticide Tolerance for Metalaxyl; Certain Food and Feed Commodities

Correction

In rule document 89-7179 beginning on page 12444 in the issue of Monday, March 27, 1989, make the following correction:

§ 186.4000 [Corrected]

On page 12445, in the first column, in § 186.4000(d), in the seventh line, "methylphenyl" was misspelled.

BILLING CODE 1505-01-D

[OPP-180805; FRL-3528-5]

Receipt of an Application for a Specific Exemption To Use Avermectin B_1; Solicitation of Public Comment

Correction

In notice document 89-4305 beginning on page 8595 in the issue of Wednesday, March 1, 1989, make the following corrections:

1. On page 8595, in the third column, in the **SUMMARY**, in the fifth line, "avermectin" was misspelled.

2. On the same page, in the same column, in the **SUMMARY**, in the 15th line, "avermectin $B_{1\ 1a}$" should read "avermectin B_{1a}".

3. On the same page, in the same column, in the **SUMMARY**,in the 17th line, "demethyl" was misspelled.

BILLING CODE 1505-01-D

[OPP-30284A; FRL-3549-9]

Elanco Products Co.; Approval of Pesticide Product Registrations

Correction

In notice document 89-7936 beginning on page 13741 in the issue of Wednesday, April 5, 1989, make the following corrections:

On page 13741, in the third column, in the second complete paragraph, in the 18th line, and in the third complete paragraph, in the fifth line,"pyrimidinemethanol" was misspelled.

BILLING CODE 1505-01-D

[OPP-50683; FRL-3539-5]

Issuance of Experimental Use Permits; Dow Chemical Co. et al.

Correction

In notice document 89-4398 appearing on page 8596 in the issue of Wednesday, March 1, 1989, make the following correction:

In the second column, under **SUPPLEMENTARY INFORMATION**, in the second paragraph, beginning in the fifth line, "O-(2-(1,1-dimethylethyl)-5-pryimidinyl) 0,0-diethylphosphorothioate" was printed incorrectly.

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 573

[Docket No. 87F-0408]

Food Additives Permitted in Feed and Drinking Water of Animals; Selenium

Correction

In rule document 89-8429 beginning on page 14214 in the issue of Monday, April 10, 1989, make the following correction:

§ 573.920 [Corrected]

On page 14215, in the third column, in paragraph (3), insert quotation marks at the end of the paragraph.

BILLING CODE 1505-01-D

federal register

Wednesday
April 19, 1989

Part II

Department of Health and Human Services

Office of Child Support Enforcement

45 CFR Parts 301 et al.

Standards for Program Operations; Notice of Proposed Rulemaking

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Child Support Enforcement

45 CFR Parts 301, 302, 303, 304, 306, and 307

RIN 0970-AA16

Standards for Program Operations

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

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed regulation implements the requirements of sections 121 and 122 of the Family Support Act of 1988 (Pub. L. 100-485) by revising current regulations to specify standards for processing child support enforcement cases and timeframes for distributing child support collections under title IV-D of the Social Security Act (the Act). By imposing requirements and timeframes for taking appropriate actions and clarifying or updating existing or vague timeframes and requirements, the proposed regulation would ensure that child support services are effectively and expeditiously provided and that children receive the services they need and the support to which they are entitled. States would be required to meet these standards by October 1, 1990.

This regulation also responds to section 121(b) of Pub. L. 100-485 which requires consultation with an advisory committee prior to publication of this Notice of Proposed Rulemaking. Information concerning the consultation is provided in the Background section of this proposed rule.

In addition, this proposed rule implements sections 103(e)(3) and 127 of the Family Support Act of 1988 by revising regulations to exclude certain costs from administrative costs when computing incentive payments.

DATE: Consideration will be given to written comments and suggestions received by June 19, 1989.

ADDRESS: Address comments to: Office of Child Support Enforcement, Department of Health and Human Services, 370 L'Enfant Promenade SW., Washington, DC 20447. Comments will be available for public inspection Monday through Friday, 8:30 a.m. to 5:00 p.m. in the Department's Office at the above address.

FOR FURTHER INFORMATION CONTACT: Joyce Allred, Policy and Planning Division, OCSE (202) 252-5369.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

Public reporting burden for the collection of information requirements at 45 CFR 303.2(a), 303.2(b)(2), 303.2(b)(4), 303.2(b)(5), 303.3 (d) through (g), 303.4(d)(2), 303.6(c)(3), 303.10(b)(6), 303.11(a), 303.11(c), 303.11(d) and 302.32(b) is estimated to average 5, 10, 5, 5, 5, 5, 5, 5, 5, 5, 5, 5, 5 and 5 minutes respectively, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Child Support Enforcement, Family Support Administration, 370 L'Enfant Promenade SW., Washington, DC 20447; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

Background

Since the inception of the Child Support Enforcement (IV-D) program in 1975, States have been required to locate absent parents, establish paternity, obtain support orders and collect support payments. However, in response to public concern that States were not providing adequate or expeditious services under the IV-D program, the Child Support Enforcement Amendments of 1984 (1984 Amendments) were enacted into law. The purpose of the 1984 Amendments is to strengthen State IV-D programs and improve performance.

Among other things, the 1984 Amendments require States to have in effect and use administrative or expedited judicial processes to establish and enforce support orders. Paternity may be established using expedited processes at State option. To implement the new law, OCSE published regulations governing expedited processes which include timeframes within which actions to establish or enforce support orders must be completed by the court or administrative authority. These timeframes require, from the time of filing to the time of final disposition, 90 percent of actions to be completed in 3 months, 98 percent in 6 months and 100 percent in 12 months.

The expedited processes timeframes in Federal regulations, however, only refer to the time a case is actually under judicial or administrative review. There are no corresponding overall requirements in Federal regulations for expeditious processing of cases from the time of referral from the Aid to Families with Dependent Children (AFDC) agency, the foster care agency, the State Medicaid agency or application for non-AFDC services under the IV-D program until the IV-D agency takes an appropriate action. There are also few specific requirements regarding what actions are adequate at each step of case processing, what results are expected, and under what conditions a case may be closed.

In April 1987, the U.S. General Accounting Office (GAO) published a report to the Secretary of Health and Human Services titled *Child Support: Need to Improve Efforts to Identify Fathers and Obtain Support Orders* (GAO/HRD-87-37) (hereafter referred to as the GAO report) in which it examined State IV-D agency efforts to determine paternity and obtain support orders for AFDC children and the potential impact of the 1984 Amendments on the IV-D program. The GAO report stated that State efforts to determine paternity or obtain support orders were inadequate because: (1) AFDC agencies did not refer all cases to IV-D agencies; or (2) IV-D agencies did not open cases for some referrals, closed some cases prematurely, or did not work open cases for at least six months. Accordingly, GAO recommended that OCSE: (1) Require that AFDC agencies refer appropriate cases to the IV-D agencies; (2) require that IV-D agencies open cases and pursue paternity and support orders as required by Federal law and regulations; (3) set performance standards for establishing paternity and obtaining support orders; (4) review States' operations to determine whether standards are followed; and (5) provide guidance in developing case tracking and monitoring systems. We agree that stronger Federal leadership is needed to address the serious problems cited by GAO and identified as well by OCSE audits and reviews. The need to eliminate these problems is particularly pressing because, as the number of divorces and out-of-wedlock births increase, the number of families needing IV-D services will increase as well.

Despite Federal and State efforts in the 13 years since the inception of the IV-D program, the child support problem continues to grow. In FY 1987, OCSE conducted IV-D program reviews in most States; since then, activity has been continuing on a more targeted basis. The purposes of the reviews are: (1) To focus States' attention on the Federal government's clear objective to achieve full implementation of Federal child support legislation and especially the 1984 Amendments; and (2) to alert

States to problems in the operation of IV–D programs. Results from the program reviews completed to date indicate widespread problems in many aspects of case processing including: inadequate cooperation between the AFDC and IV–D agencies with regard to the referral of AFDC cases and information exchange; incomplete or no action taken on cases needing paternity establishment; ineffective and incomplete locate procedures; inadequate support obligations established; and ineffective use of enforcement techniques.

These findings, coupled with the findings from the FY 1984, 1985 and 1986 program results audits (33 of 54 States audited for FY 1984 or 1985 were found not to be in substantial compliance with IV–D requirements), indicate a compelling need for IV–D programs to improve their performance.

To aid in identifying actual case processing steps and the time required for completion of each action required under 45 CFR Part 303, OCSE first requested input from State IV–D agencies in the fall of 1987. Various States submitted case processing flow charts and descriptions of case processing steps from referral of a case by the AFDC agency (referred to generally as IV–D intake) to establishment and/or enforcement of a child support obligation. Many case processing schemes submitted were complicated or vague with regard to actual steps taken and the majority of States did not submit actual timeframes within which actions are taken. However, analysis of this information, and the findings of the program results audits and program reviews, underscores the need for more stringent and precise timeframes and program standards.

On October 13, 1988, the Family Support Act of 1988 (Pub. L. 100–485) was signed into law. This new law addresses the injustice of parents failing to assume responsibility for their children's support. Section 121 of Pub. L. 100–485 requires the Secretary of Health and Human Services (HHS) to establish time limits within which States must accept and respond to requests for assistance in establishing and enforcing support orders, including requests to locate absent parents, establish paternity and initiate proceedings to establish and collect support awards.

Section 121(b) further required the establishment, no later than December 13, 1988, of an advisory committee composed of representatives of organizations representing Governors, State welfare Administrators and State child support enforcement Directors. The Secretary is required to consult with the committee prior to issuing any regulations establishing standards regarding what constitutes an adequate response on the part of a State to the request of an individual, State, or jurisdiction for services.

Section 122 of Pub. L. 100–485 requires the Secretary of HHS to establish time limits governing the period within which a State must distribute amounts collected as child support. While not required by statute, OCSE also consulted with the advisory committee on these timeframes and made adjustments based on the advice of the Committee members. We have incorporated the standards required by sections 121 and 122 of P.L. 100–485 into this proposed rule and plan to issue final regulations no later than August 1, 1989, as specified in the law. We believe that the standards which implement sections 121 and 122 will significantly improve the performance of IV–D programs.

The 19-member advisory committee was appointed in December 1988, and convened in Washington, DC on January 4, 1989, adjourning the following day. In addition to the representation mandated by statute, representatives of child advocacy groups, State legislators, judges, prosecuting attorneys and other child support practitioners were included on the advisory committee, enabling us to benefit from the broadest possible range of child support expertise in developing these proposed rules.

OCSE opened the meeting by providing background information on current performance of State IV–D programs and presenting proposed case processing time standards. The suggested timeframes covered each case processing function, from intake through enforcement. A 2-day discussion of prompt response and distribution issues followed. Committee members presented their views on the appropriateness of each of the timeframes and processing steps developed by OCSE and recommended alternatives where they considered the initial proposal to be overly extensive or unduly restrictive. The committee also suggested additional processing steps that based on their experience warranted inclusion under the timeframes. As a result, many of the timeframes and case processing steps provided herein have been revised from those originally contemplated by OCSE.

The committee generally agreed that current child support case processing is in need of major improvement and that proposed timeframes should reflect realistic expectations of improved services rather than limited standards which can be readily met with minimal effort. In particular, the committee was concerned that the time standards initially considered by OCSE in the areas of distribution, case opening, support order establishment and service of process were not stringent enough. In addition, the committee identified and provided a number of recommendations for closing potential loopholes in the case processing scheme under consideration. As a result, many of the case processing timeframes, as well as a number of the case processing steps proposed herein are a direct result of the advisory committee's recommendations.

A distinct minority of committee members argued that time standards should not be phased in until, in accordance with Pub. L. 100–485, automated child support information management systems are mandatory in 1995. However, we disagree that the timeframes proposed herein cannot be met much sooner. In fact, a number of committee members indicated their IV–D programs could currently meet many of the proposed timeframes. Many spoke of the thirteen years that have already elapsed since the basic framework and requirements of the IV–D program were enacted into law. Further, in mandating that we publish final rules setting timeframes for case processing within 10 months of enactment of Pub. L. 100–485, Congress surely did not intend for us to allow States six or seven more years to meet those timeframes. We believe that these proposed timeframes are well-reasoned, having been developed based on the experience of many child support experts representing different points of view and that meeting the timeframes should be within the grasp of any well-managed IV–D agency by October of 1990.

Further, over time, we intend to reconsider the time standards to determine if they are stringent enough to ensure services are being provided promptly given operational experience and steadily expanding automation of program activities since their adoption. We solicit comment on what steps we should take to reflect improvements in case processing over time. One option is to wait to decide whether and how to change time frames in the program standards. Another option is to write into the final regulation a date by which these regulations must be reviewed and updated. A third option would be to write into the regulation shorter time frames for years after 1990. We would appreciate comments on these options, and other suggestions that commenters may wish to offer.

With the exception of a minority viewpoint over when time standards

should be phased in, the committee generally reached consensus on each of the specific timeframes and case processing steps contained in this rule. The proposals in this rule were greatly influenced and often suggested by those on the advisory committee. The committee's valuable contribution to this effort and support for the contents of this proposal and what these standards are intended to accomplish are greatly appreciated.

Therefore, we propose to strengthen the current requirements and define standards for program operations, in accordance with Pub. L. 100–485, as follows. Current regulations governing case processing contain requirements to process cases "promptly", "as soon as possible", etc. Vague regulatory requirements invite differing interpretations and inhibit accountability. In addition, existing specific timeframes intended to be the maximum time necessary or allowable to take an action often become the minimum amount of time within which any action is initiated.

Based on the analysis of program audit and program review results, input from State IV–D agencies, early discussions with experts in child support enforcement case processing and program operations and recommendations of the advisory committee, we developed standards set forth in this proposed regulation which should ensure appropriate and expeditious processing of IV–D cases. States would have to meet the standards for case processing contained in this proposed rule as one facet of the determination of whether they are in substantial compliance with the requirements of title IV–D of the Act. We believe the proposed standards are realistic and focused in areas where increased effectiveness and efficiency are necessary for an enhanced IV–D program.

We intend to revise the regulations governing audits of State child support enforcement programs to address substantial compliance with the proposed case processing timeframes and program standards. We will issue a proposed audit regulation soon after publication of these program standards regulations as final rules. As a general rule, States would be required to meet the case processing timeframes and standards in 75 percent of the cases reviewed for an audit as one facet of the determination of whether they are in substantial compliance with the requirements of title IV–D of the Act beginning October 1, 1990.

We recognize that there may be a small percentage of cases which will not be processed in accordance with required timeframes because of the specific circumstances of the case. However, we believe that the number of such cases is so minute as to have little impact, even in a marginally effective program, on the substantial compliance standard, which requires that only 75 percent of cases meet the required timeframes to successfully pass the audit. The advisory committee supported this position.

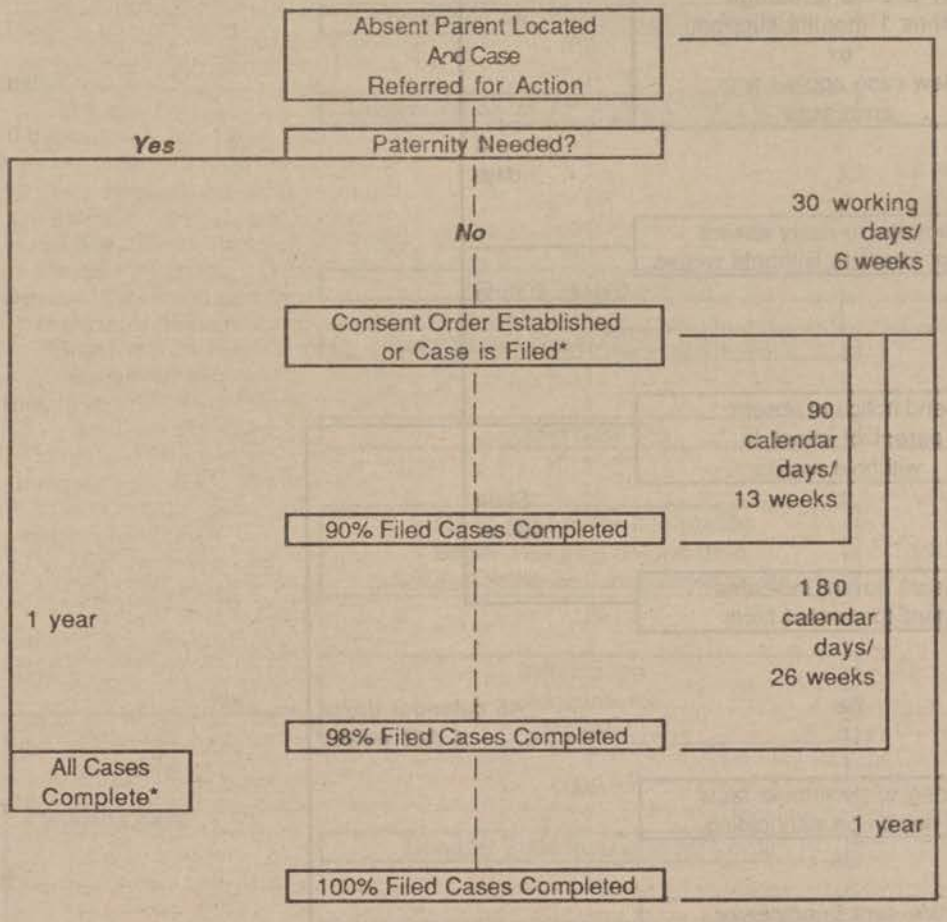
Requirements for timely IV–D program operations are only one part of the IV–D amendments contained in Pub. L. 100–485. However, because of stringent statutory deadlines, this proposed rule addresses time limits for accepting and responding to requests for establishment and enforcement of support orders and the distribution of support collections. This proposed rule would also revise regulations to exclude from State administrative costs in computing incentive payments, the costs of: (1) State demonstration projects for evaluating model procedures for reviewing child support awards, as authorized by section 103(e)(3) of Pub. L. 100–485; and (2) effective January 1, 1990, the costs of interstate enforcement demonstrations in accordance with section 458(d) of the Act, as amended by section 127 of Pub. L. 100–485.

The remaining child support provisions of Pub. L. 100–485 which require regulations by OCSE will be implemented in separate regulations. These separate regulations will address requirements for immediate income withholding (section 101); disregard applicable to timely child support payments (section 102); State guidelines for child support award amounts, including review and modification of orders (section 103, with the exception of section 103(e), regulated in this document); timing of notice of support payment collections (section 104); performance standards for State paternity establishment programs, including mandatory genetic testing in contested paternity cases (section 111); increased Federal assistance for paternity establishment (section 112); and mandatory automated tracking and monitoring systems (section 123).

The following charts summarize many of the time standards in this proposed regulation. They also incorporate interactions with other regulations, such as those for wage withholding and expedited processes. These charts should make it easier for the public to review this notice of proposed rulemaking.

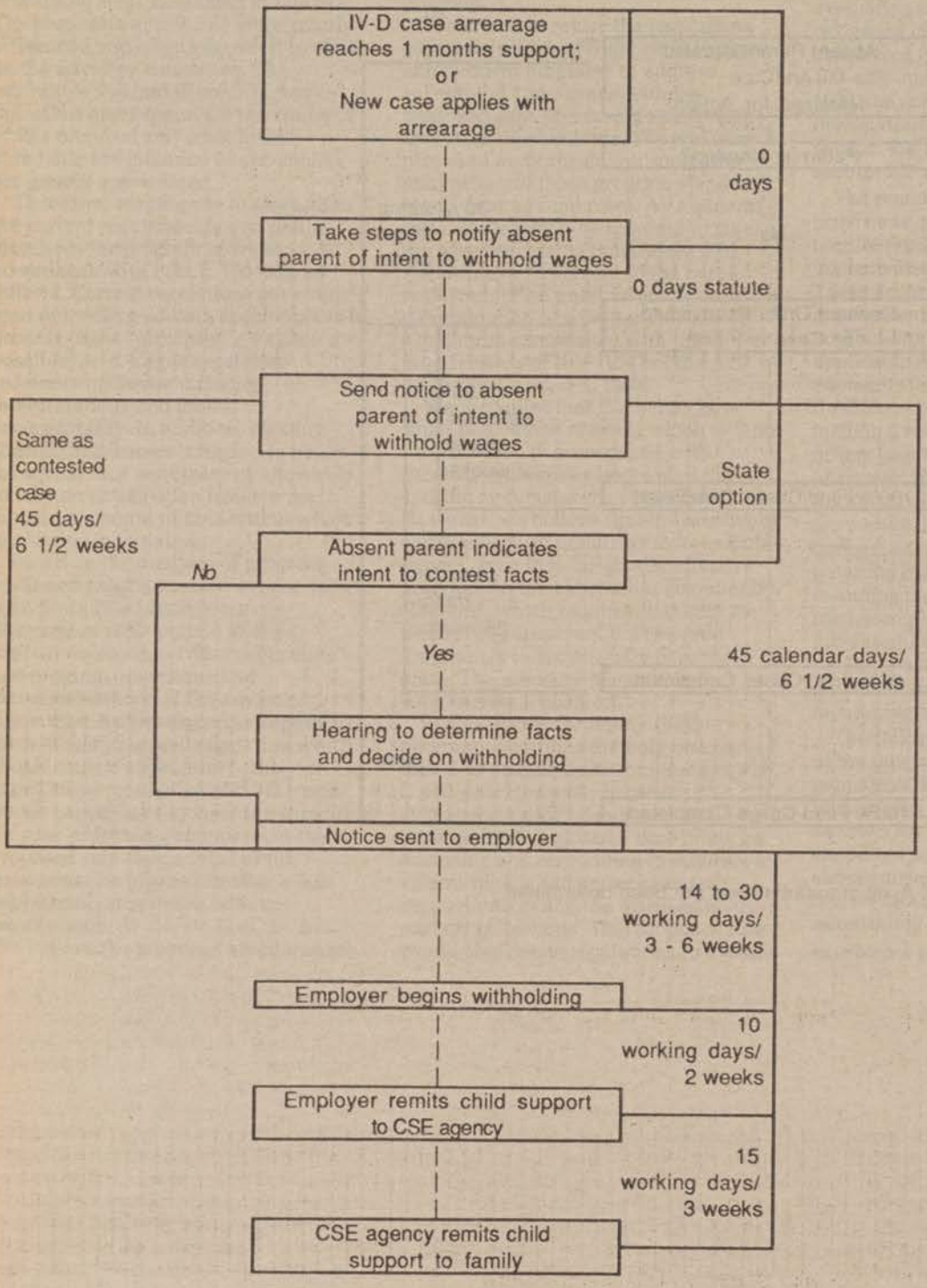
BILLING CODE 4150-04-M

CASE FILING AND COMPLETION TIME LIMITS

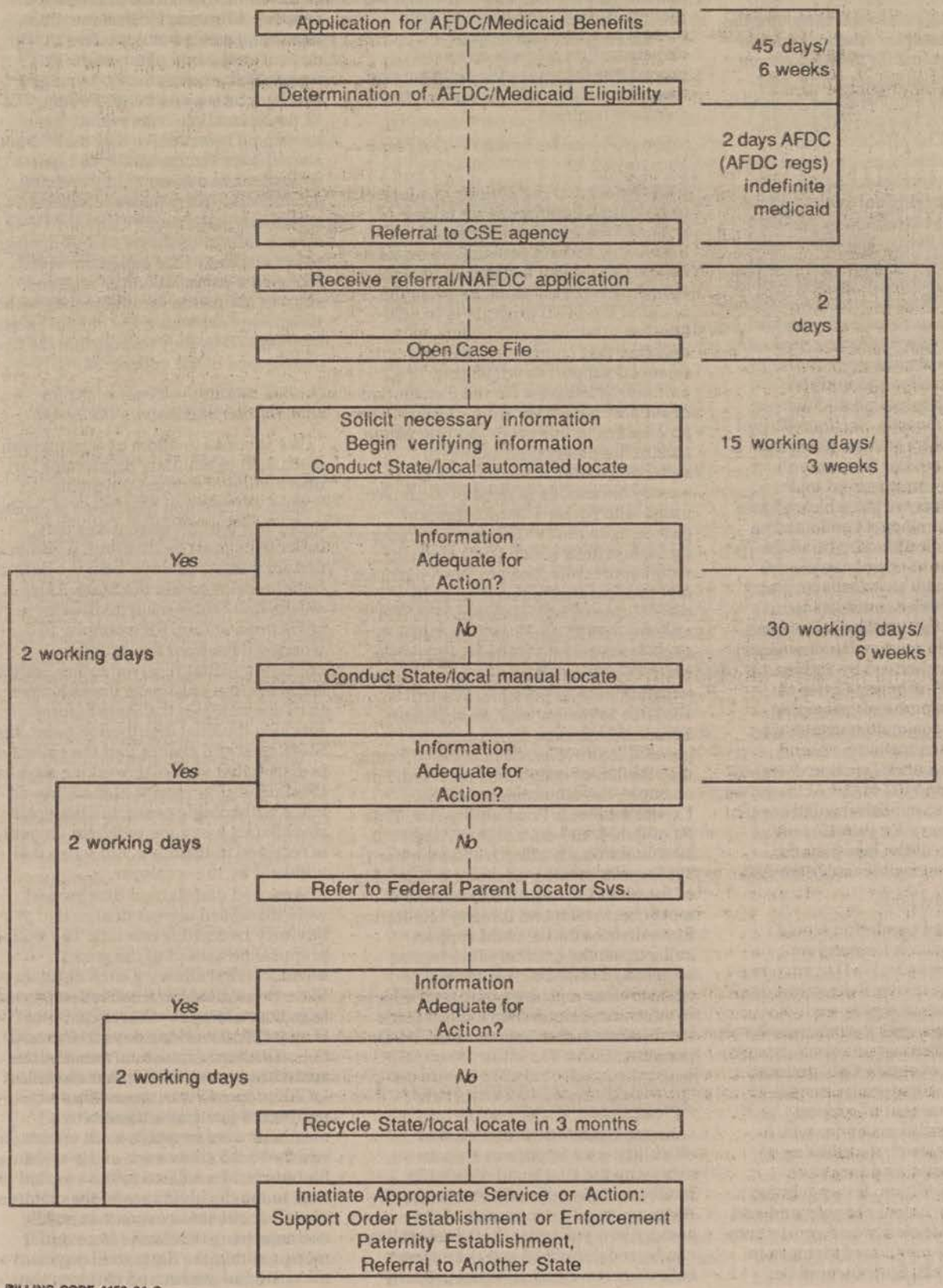


* Audit standards have not been determined.

WAGE WITHHOLDING TIME LIMITS



TIME LIMITS FOR LOCATING ABSENT PARENTS AND REFERRING CASES FOR ACTION



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Statutory Authority

This regulation is proposed under the authority of sections 452 (a)(1) and (a)(2), (h) and (i), 454(13), 458(d) and 1102 of the Act.

Sections 452(a) (1) and (2) require the Secretary to establish such standards for State programs for locating absent parents, establishing paternity, and obtaining child support as he determines to be necessary to assure that such programs will be effective, and to establish minimal organizational and staffing requirements for State units engaged in carrying out such programs. Section 452(h) of the Act, added by section 121 of Pub. L. 100–485, requires the Secretary to establish time limits governing the period or periods within which a State must accept and respond to requests for assistance in establishing and enforcing support orders, including requests to locate absent parents, establish paternity, and initiate proceedings to establish and collect child support awards. Section 452(i) of the Act, added by section 122 of Pub. L. 100–485, requires the Secretary to establish time limits governing the period or periods within which a State must distribute amounts collected as child support. Section 454(13) of the Act requires States to comply with such requirements and standards as the Secretary of HHS determines to be necessary for the establishment of an effective IV–D program. Section 458(d) of the Act, as amended by section 127 of Pub. L. 100–485, requires States to exclude for purposes of computing incentives, the amounts expended by the State in carrying out a special project assisted under section 455(e) of the Act. Section 1102 of the Act requires the Secretary to publish regulations that may be necessary for the efficient administration of the functions for which he is responsible under the Act.

Regulatory Provisions

This proposed regulation would prescribe standards for program operations which the IV–D agency must meet, including minimal organizational and staffing requirements, and requirements governing: maintenance of case records; location of absent parents; establishment of support obligations; establishment of paternity; service of process; enforcement of support obligations; conditions under which cases may be closed; distribution of support payments; and incentive payments. In addition, this regulation would make technical changes and add new sections for clarity and consistency with the above-mentioned changes to Parts 302 and 303. States would be required to meet these standards by October 1, 1990.

Changes with respect to excluding costs of interstate grants when computing incentives would be effective January 1, 1990, and changes with respect to excluding costs of demonstration projects on model procedures for reviewing child support awards would be effective when the costs are incurred.

Support Payments to the IV–D Agency—Section 302.32

Under current regulations, the lack of, or outdated, timeframes for taking action cause excessive delays in accounting for and distributing support collections. These delays penalize the obligor and the children. Because the intent of the IV–D program is to help families attain self-sufficiency by ensuring that children receive the financial support to which they are entitled, timeframes for the distribution of support payments are necessary. The timeframes in this proposed rule would ensure the timely distribution of collections after receipt by the IV–D agency to families in need of them. We propose to revise § 302.32, Support payments to the IV–D agency, to reduce the time within which IV–D agencies must report collections to IV–A agencies and to add specific timeframes for distribution of collections in both AFDC and non-AFDC cases as a first step in ensuring that child support collections reach the intended recipients as expeditiously as possible. We will continue to review and, as necessary, tighten distribution timeframes to parallel improvements in areas affecting distribution of collections received. For example, the requirements of the Expedited Funds Availability Act, Title IV of Pub. L 100–86, enacted August 10, 1987 and initially effective September 1, 1988, seeks to ensure prompt availability of funds and to expedite clearance of most checks. Beyond directly facilitating State distribution of child support collections, the statutory timeframes required of financial institutions can also serve as a guidepost against which to measure performance and set goals for the distribution aspect of the IV–D program.

Section 302.32(b)—Informing the IV–A Agency of Collections

Expeditious redetermination of eligibility is an important step in achieving the IV–D goal of helping families attain self-sufficiency. The IV–A agency must be informed of the amount of a collection so that eligibility can be redetermined and the support collection can be distributed properly and in a timely manner. Current regulations at § 302.32(b) require the IV–D agency to inform the IV–A agency of the amount of collection which represents payment on the required support obligation for that month as soon as possible but not later than 30 days after the end of a month. This means that a collection on January 2 need not be reported until February 28—57 days later. We believe that this timeframe is excessive and that States should have the capability to report collections in a more timely manner. Accordingly, we propose to amend paragraph (b) to require that the IV–D agency inform the State's IV–A agency of the amount of the collection which represents payment on the required support obligation for that month within 10 working days from the date of receipt by the IV–D agency responsible for final distribution of the collection.

Section 302.32(f)—Timeframes for Distribution of Amounts Collected

We propose to add a new paragraph § 302.32(f) to mandate timeframes for distribution of support payments.

Each distribution timeframe proposed under this paragraph requires that collections must be distributed within a certain number of days from the date of initial receipt within the State. This means that States must distribute collections within, for example, 15 working days from the date the collection is first received in the State. If the collection must pass through more than one entity in the State before reaching the final distribution point, the State must still ensure that the collection is distributed within 15 working days of the date of *first* receipt in the State. In wage withholding cases, the timeframe would start when the withheld amount is received in the State, not when it is withheld by the employer.

Proposed distribution timeframes were discussed a great deal in the advisory committee meeting. The initial proposal presented to the group recommended allowing each entity in a State through which a collection passed (e.g., court, local IV–D agency, State IV–D agency) 10 working days to forward the collection. Almost universally, the committee members felt that the initial OCSE proposal was an unduly protracted timeframe. Committee members were negative to an approach which would allow each entity within a State to hold a collection for a period of time to the disadvantage of the children. The clear consensus was that an all-encompassing timeframe from initial receipt within the State until payment to the custodial parent and children should

be set. It then would be up to the designated single State agency to monitor performance and limit delays at each step of the process. Committee members generally agreed that as short a time as feasible should be set, making allowance for interstate case situations. Virginia has been under court order for over a year to distribute child support collections within 15 days, and has almost always met that condition without difficulty through management commitment and an appropriate allocation of resources to the task. Therefore, we have responded to the committee's concern that distribution be as timely as possible for the benefit of the children who, all too frequently, are in desperate financial circumstances, while allowing adequate time for more difficult situations such as interstate cases, as the basis for the timeframes discussed below.

1. Section 302.32(f)(1)—Timeframes for Distribution of Amounts Collected in Interstate IV–D Cases

Current regulations under § 303.7(c)(7)(iv) require in interstate IV–D cases, the responding State to collect and monitor any support payments from the absent parent and forward payments to the location specified by the initiating IV–D agency no later than 10 days after the collection is received, except with respect to certain Federal tax offset collections. We propose to add a new paragraph § 302.32(f)(1) to require in interstate IV–D cases, amounts collected by the responding State on behalf of the initiating State to be forwarded to the initiating State within 10 working days of the initial point of receipt in the responding State in accordance with § 303.7(c)(7)(iv). This does not reflect a change in policy but simply conforms this proposed requirement to the current requirement under the interstate regulation.

2. Section 302.32(f)(2)—Timeframes for Distribution of Amounts Collected on Behalf of Current Recipients or AFDC and Title IV–E Foster Care Assistance

We propose to add a new § 302.32(f)(2) to require States to meet specific timeframes in distributing collections on behalf of current recipients of AFDC and title IV–E foster care assistance.

Current regulations at § 302.51(b)(1) require that, of any amount that is collected as support by the IV–D agency on behalf of current recipients of aid under the State's IV–A plan and for whom an assignment under § 232.11 is effective, the first $50 of any amount collected in a month which represents payment of the required support obligation for that month shall be paid to the family. Because the $50 pass-through must be disregarded in redetermining eligibility, there is no reason to delay sending that amount to the family. Accordingly, we propose to amend § 302.32 by adding a new paragraph (f)(2)(i) to require that payments to the family in AFDC cases under § 302.51(b)(1) must be made within 15 working days of the date of initial receipt in the State. Therefore, the 15-day timeframe would start when the collection is received by the first point of receipt within the State. This required timeframe would apply regardless of whether the IV–A agency distributes the $50 disregard or the IV–D agency makes the $50 disregard payment under agreement with the IV–A agency.

We propose to amend § 302.32 further to address the distribution of collections in AFDC cases under § 302.51(b) (2) through (5). Because the amounts collected in excess of the $50 payment to the family are, for the most part, used to reimburse the State and Federal government for AFDC payments to the family, we propose to require in paragraph (f)(2)(ii) that, except as specified under proposed paragraph (f)(2)(iv), collections under § 302.51(b) (2) through (5) must be distributed within 15 working days of notice of eligibility redetermination by the IV–A agency. However, we would allow States to distribute such collections prior to eligibility redetermination at the IV–D agency's discretion. We are proposing to allow States to distribute collections under § 302.51(b) (2) through (5) without waiting for eligibility redetermination because, while redetermination of eligibility can take up to four months, a collection which causes ineligibility is used to reimburse the State and Federal government for AFDC paid to the family in the month of collection. Although some subsequent adjustment may be necessary, the benefits of timely distribution warrant allowing States this flexibility.

We propose to require in paragraph (f)(2)(iii) that, except as specified in paragraph (f)(2)(iv), collections in title IV–E foster care cases must be distributed within 15 working days of the date of initial receipt in the State.

Finally, proposed paragraph (f)(2)(iv) requires collections as a result of Federal or State tax refund offset to be distributed in AFDC cases under § 302.51(b) (4) and (5) and in title IV–E foster care cases under § 302.52(b) (3) and (4) within 15 working days of the date of initial receipt in the State. Even though tax offset collections are batched in a discrete timeframe, for the most part, unlike regularly recurring collections, we believe that distribution can be handled expeditiously, albeit perhaps with some shifting of IV–D agency resources. Therefore, we are proposing the same 15 working day timeframe with respect to these collections as well.

3. Section 302.32(f)(3)—Timeframes for Distribution of Amounts Collected on Behalf of Non-AFDC Individuals

To ensure timely distribution of amounts collected on behalf of individuals receiving services under § 302.33, we propose to require in § 302.32(f)(3) timeframes within which States must distribute collections on behalf of non-AFDC families. Current delays in some States in transmitting support payments to the family are excessive and unwarranted. We believe that these timeframes are necessary to ensure that children receive the support to which they are entitled in a timely manner.

Under § 302.32(f)(3)(i), we propose that amounts collected which represent payment on the current support obligation shall be paid to the family within 15 working days of the date of initial receipt in the State.

New paragraph (f)(3)(ii) would reflect current policy by requiring that, except as specified in paragraph (f)(3)(iii), if the amount collected is more than the amount required to be distributed in paragraph (f)(3)(i) discussed above, the State may, at its discretion, either pay such amounts to the family to satisfy non-AFDC past-due support or retain such amounts as have been assigned to satisfy past assistance paid to the family which has not been reimbursed. In States where the IV–D agency opts to apply such amounts to non-AFDC arrearages, the amounts must be paid to the family within 15 working days of the date of initial receipt in the State.

New paragraph (f)(3)(iii) would address timeframes for distribution of Federal income tax refund offset collections in non-AFDC cases. Amounts collected as a result of tax refund offset to satisfy past-due support would be distributed under § 302.51(b) (4) and (5) within 15 working days of the date of initial receipt in the State, with one exception. Section 303.72(h)(5) allows States, in cases where the Secretary of the Treasury, through OCSE, notifies the State that an offset is being made to satisfy non-AFDC past due support from a Federal refund based on a joint return, to delay distribution until notified that the unobligated spouse's proper share of the refund has been paid or for a period not to exceed

six months from notification of offset, whichever is earlier.

Since timeframes for distribution of all IV–D collections, regardless of the collection mechanism (e.g., Federal or State income tax refund offset, wage withholding), would be governed by proposed § 302.32(f), reference to timeliness of distribution in other regulations is unnecessary. Accordingly, we propose to amend § 302.51 by deleting in paragraph (a) the last sentence that reads "In any case in which collections are received by an entity other than the agency responsible for final distribution under this section, the entity must transmit the collections within 10 days of receipt." and by deleting in paragraphs (b) (3) and (5) the sentence that reads "This payment shall be made in the month following the month in which the amount of the collection was used to redetermine eligibility for an assistance payment under the State's title IV–A plan". Similarly, we propose to amend § 303.100(e)(2) to delete reference to distributing "promptly" amounts collected through wage or income withholding. Finally, we would delete from regulations governing distribution of State tax refund offset collections the words "Within a reasonable time period in accordance with State law" in § 303.102(g)(1).

Maintenance of Case Records—Section 303.2

Current § 303.2 requires the IV–D agency, for all cases referred to the IV–D agency or upon application for IV–D services under § 302.33, to immediately establish a case record. The case record must contain all information collected pertaining to the case. Furthermore, current regulations list information which should be included, when applicable, at § 303.2 (a) through (l).

Despite these current requirements, GAO reported that seven of the eight IV–D agencies visited in the study cited earlier did not open cases and establish records for 110 of the 760 children who needed orders and did not get them. GAO stressed that failure to open cases results in some children being denied paternity determinations and support orders and distorts statistics needed by program managers and the Congress to accurately measure performance and identify problems that may require corrective legislative actions. Similar findings are evident in IV–D program audit results. Of 33 States found not to comply substantially with title IV–D requirements as a result of an audit for FY 1984 and 1985, nine States have been assessed a penalty for failure to meet the requirement for maintenance of case records because case records could not be located or because case documentation was inadequate. This indicates that cases had never been opened or case records had been lost.

Case opening problems are compounded by the fact that there are no formal requirements governing the IV–D application process. As a result, there are reportedly long delays in even accepting an application in some States. Members of the advisory committee discussed the overwhelming need for specific requirements setting timeframes within which States must accept and respond to applications for IV–D services. The initial proposal we presented to the group required that States open a case within 2 working days of receipt of referral or application. The members of the group expressed concern about problems individuals have in obtaining and filing IV–D applications. The consensus of the group was to retain our proposed 2-day timeframe for case opening and to add formal requirements governing the accessibility, availability and filing of applications for services. The group believes that this is necessary to ensure that the case opening requirements are triggered promptly.

The intent of the Child Support Enforcement program is to ensure that IV–D services are provided to those cases which require them. Unless applications are provided and accepted and cases are opened, this purpose cannot be achieved. In response to advisory committee input, the problems reported by GAO and OCSE's program reviews and program audits, we believe it is necessary to clearly state what actions IV–D agencies must take to provide and accept applications for IV–D services and to open a case upon referral or application for IV–D services.

Accordingly, this proposed regulation would revise § 303.2 in several ways. First, the section title, Maintenance of case records, would be changed to Establishment of cases and maintenance of case records. Because this proposed regulation would expand and clarify the requirements for case establishment, to be discussed below, it should be reflected in the title. Second, current § 303.2(a) through (l) are examples of the type of information to be included in case records. The list, while not all-inclusive, is lengthy. We do not believe it is necessary to attempt to spell out all the information that should be included in a case record. Rather, we are proposing to address IV–D agency responsibilities with regard to the application process in § 303.2(a) and to address case records in proposed § 303.2(b).

1. Application Process

The requirements for provision of non-AFDC services do not apply until the IV–D agency receives an application for IV–D services. However, because there are no current requirements governing when the IV–D agency must provide and accept the applications, there are indefensible delays in the establishment of case records and provision of services. In accordance with Pub. L. 100–485, we are proposing to set forth explicit requirements and timeframes for responding to requests from individuals for child support assistance. This will ensure that individuals receive applications for IV–D services and that once applications are received, cases are opened and services provided in a timely manner.

Current regulations at § 302.30 require that IV–D agencies must publicize the availability of support enforcement services and must include a telephone number or address where further information may be obtained. However, further information is often not readily available to individuals. Often, individuals cannot receive applications for services or information about IV–D services until an intake appointment is scheduled. Members of the advisory committee reported that current State practices regarding applications frustrate individuals who are trying to obtain IV–D services. For instance, they indicated that at least seven States require an intake appointment to receive or fill out an application and often appointments are not available for at least 6 to 8 weeks. In addition, when individuals call to request services, an application may never be mailed to them. These delays are discouraging to the individual and antithetical to the purpose of the IV–D program. To ensure that IV–D services are provided to those persons who require them, it is crucial that individuals have access to IV–D applications without having to wait unreasonable periods of time. Accordingly, proposed paragraph (a)(1) would require that the IV–D agency must make applications for child support services readily accessible to the public.

To ensure that applications are provided as soon as possible after an individual inquires about IV–D services, we propose to require in § 303.2(a)(2) that the IV–D agency must provide applications on the day an individual requests an application or services. In addition, information describing available services, the individual's

rights and responsibilities and the State's fees, cost recovery and distribution policies must accompany all applications for services.

While the above requirements should ensure that IV–D information is provided to individuals in a timely manner, cases cannot be opened and services cannot be provided until the application is received and a case record is established. Case record establishment, to be discussed in more detail below, is the essential first step in gathering the information needed to process cases effectively. Because in non-AFDC cases this information is initially gathered on the application, States must log in and assess the application in a timely manner. However, because only minimal information is needed to establish a case record, we propose to require in paragraph (a)(3) that the IV–D agency must accept an application as filed on the day it is received. An application is a written document provided by the State which indicates that the individual is seeking assistance with a child support problem and is signed by the individual applying for IV–D services.

2. Opening Cases

We are proposing in § 303.2(b) that, for all cases referred to the IV–D agency or applying for IV–D services under § 302.33, the IV–D agency must open a case within two working days of receipt of referral or application for services by establishing a case record. The case record (which may be automated, on paper or a combination thereof) must be supplemented with all information and documents pertaining to the case and will include all relevant facts, dates, actions taken, contacts made and results in a case.

Initially, a case file will contain only that information which is available upon application or referral. The additional information and documents pertaining to the case described above would be included in the case file as they become available or as they are gathered. Therefore, because the initial requirements for case opening are minimal, we believe two working days for opening cases is adequate and reasonable.

3. Actions Required Within 15 Working Days of Referral or Application for IV–D Services

With regard to cases referred to the IV–D agency, the AFDC agency is required under 45 CFR 235.70 to provide all relevant information prescribed by the IV–D agency. Often, however, the interview to determine AFDC eligibility is inadequate to gather the information.

Because of the need for increased cooperation and coordination between the AFDC (IV–A) and IV–D programs, the Family Support Administration (FSA) launched the IV–A/IV–D Interface Initiative in FY 1986 to improve the interaction between IV–A and IV–D programs. As mentioned previously, IV–D program reviews highlighted serious problems which prevent effective IV–A/IV–D agency interaction including: Lack of timeliness in reporting; inadequate information referred; and poor understanding of the roles of each agency. As part of the Initiative, OCSE is working with the Office of Family Assistance (OFA) to correct these problems. To date, the following goals have been accomplished:

1. FSA has funded four demonstration projects under which States will test the following techniques: a separate AFDC applicant interview by a child support enforcement worker and initiation of IV–D services within the AFDC application period; the invoking of sanctions by the IV–D agency for failure to cooperate in establishing paternity and obtaining a support order; and enhanced data exchange between the two programs.

2. Each FSA Regional Office initially conducted an interface program review of at least one locality and issued a report including recommendations for improvement. Regional Offices have carried out subsequent activities in this same vein.

3. Several States have initiated or are developing pilot projects to test the feasibility of innovative provisions to address problems such as: late case referrals from IV–A to IV–D agencies and insufficient, or poor quality, information referred; poor exchange of case status information; lack of communication between IV–A and IV–D agencies; and inadequate staff training.

4. OCSE developed training packages to improve understanding of each agency's roles and programs and to strengthen the training and orientation of workers within and between programs. The National Institute of Child Support Enforcement (NICSE), under contract to OCSE, developed and field tested the Participants' Handbook and Trainers' Guide Handbook with local jurisdictions and conducted the first two sessions for training certified trainers in February, 1988.

5. OCSE is identifying State and local practices that are innovative and will improve the interface process. Three "best practices" have already been publicized on failure to cooperate, direct referrals and automated data exchange.

The problems discussed above must be solved because the information obtained from the AFDC client is critical to the establishment and processing of a IV–D case. While State AFDC agencies should gather all pertinent and necessary information at the AFDC interview, the IV–D agency may need to gather additional information. Some States conduct IV–D interviews before AFDC eligibility is determined. This practice, which is accomplished within the permissible time period for AFDC eligibility determination, often produces quality child support-related information quickly. We would like to point out that Federal funding is available for this IV–D activity regardless of whether the applicant is determined to be eligible for AFDC. If the custodial parent is determined to be ineligible for AFDC, States should encourage the applicant to apply for non-AFDC IV–D services in order to obtain support for the child.

Federal AFDC regulations have requirements for prompt referral of cases to child support agencies, but this NPRM does not include any corresponding requirements for child support agencies to make sure they receive the referrals. We specifically request comment on the possibility of requiring State IV–D agencies to have agreements in place to ensure that all cases are referred within a specified number of working days of an application or determination of eligibility for AFDC, Foster Care or Medicaid benefits.

Proposed § 303.2(c) would require the IV–D agency to take specific actions on a case within 15 working days of receipt of referral of a case by the AFDC, IV–E (foster care) or Medicaid agency or of an application under § 302.33. GAO specifically recommended in their report that OCSE take steps to improve State efforts to determine paternity and establish support orders. We agree that it is necessary to take steps to ensure that IV–D agencies immediately open cases and pursue paternity and support orders because we believe the initial steps taken in child support enforcement are crucial. Often it is at the first point of contact with the custodial parent that information is most likely to be available and accurate, particularly with regard to location leads, paternity issues, etc. We believe that a timeframe of 15 working days is both reasonable and necessary to ensure that cases are forwarded for necessary action expeditiously. We want to stress, however, that the 15-day requirement is intended as an outer limit. If at any point prior to the end of the required time limit there is sufficient information

to proceed, the State must initiate the next appropriate action on a case within 2 working days of determination of that action, as required in proposed paragraph (c)(3).

Child support cases enter the IV–D system at different stages of readiness and success in each case is contingent upon timely determination of what appropriate action is necessary. Furthermore, regardless of what or how much information is initially received on a case, the information is only as useful as it is accurate and complete. As stated previously, although the AFDC agency is required to gather all relevant information on a case, additional information may be necessary. The GAO report identified cases in the study which were closed due to what the State termed "inadequate information" about the alleged father. Although the particular State identified had written procedures requiring interviews to attempt to obtain information about the absent parent, records were not adequate to determine whether any information gathering had taken place.

The initial proposal we presented to the advisory committee required that within 15 working days of receipt of referral or application, the IV–D agency must conduct an interview if necessary. The group urged us to delete this requirement because an interview may not be needed in each instance at this point in case processing. Furthermore, they did not agree with setting a standard based on an "if necessary" judgment call. Although we have not required an interview, States must obtain as much information as possible from the custodial parent. This information is the most valuable in preparing a case for necessary service. To ensure all efforts to gather accurate information are made, we propose to require in paragraph (c)(1) that, within 15 working days of receipt of a case or of an application for services, based on an assessment of the case to determine necessary action, the IV–D agency must solicit necessary information from the custodial parent and other relevant sources and initiate verification of information.

Many cases enter the IV–D system with inaccurate, incomplete, outdated or no location information. Every attempt must be made to locate the absent parent because, without this information, establishment of paternity or establishment and enforcement of child support obligations is impossible. Therefore, we propose, in paragraph (c)(2), that the IV–D agency must, as necessary, access all appropriate State and local automated location sources within the 15-day timeframe. State and local automated location sources would include any of those location sources listed in § 303.3 which are automated. The State parent locator service (PLS) should have access to all these records. This requirement would ensure that every effort is made to gather information necessary to proceed with a case.

Within the 15-day timeframe, under paragraph (c)(3), if there is adequate location information available to proceed with a case, the IV–D agency must initiate necessary action on the case within 2 working days of determination of the next appropriate action or service. Such actions could include referral to another State for necessary services if the absent parent has been located in another State. Alternatively, in situations where there is inadequate location information to proceed with a case, paragraph (c)(4) would require the IV–D agency to refer the case for further location attempts as specified in § 303.3.

As stated previously, the proposed 15-day timeframe is intended as an outer limit. If at any point prior to the end of the 15 working days there is sufficient information to proceed with the case, the State must determine the next appropriate action or service immediately.

The requirements governing case opening and maintenance of case records will ensure that all appropriate cases enter the IV–D system and receive prompt attention. While the proposed rule requires the IV–D agency to perform the above-mentioned actions within the prescribed timeframes, we would like to stress that, in cases referred to IV–D agencies, the extent to which certain of these actions are necessary or appropriate depends for the most part on the amount and accuracy of information gathered on a case by the referring agency and the steps taken on a case by that agency prior to referral. By requiring the IV–D agency to perform these functions to the extent that they have not been performed by others, we do not intend to remove the burden and responsibility on the referring agency of forwarding as complete and accurate case information as possible. Often the most recent and accurate information can be obtained from the custodial parent during the interview for AFDC eligibility. The interview and the AFDC eligibility worker's initial efforts to ascertain as much information as possible are essential steps toward the goal of providing necessary services successfully.

Finally, we would like to point out that in situations where the custodial parent fails to cooperate, the IV–D agency should notify the AFDC or foster care agency of noncooperation but should not suspend activities to establish paternity or secure support in any case unless, as provided under § 302.31(b), the IV–D agency receives notice from the AFDC or IV–E agency that there has been a claim of good cause for failing to cooperate. In accordance with § 302.31(c), the IV–D agency will not undertake to establish paternity or secure support in any case for which it has received notice from the IV–A or IV–E agency that there has been a finding of good cause pursuant to §§ 232.40 through 232.49 of this title unless there has been a determination by the State or local IV–A or IV–E agency that support enforcement may proceed without the participation of the caretaker or other relative. If there has been such a determination, the IV–D agency will undertake to establish paternity or secure support but may not involve the caretaker or other relative in such undertaking.

Location of Absent Parents—Section 303.3

Current regulations at 45 CFR 303.3 set forth requirements for all cases referred to the IV–D agency or applying for services under § 302.33 under which State IV–D agencies must attempt to locate all absent parents when their location is unknown.

Because current and accurate location information is a prerequisite to any action to establish or enforce a child support obligation, we believe improvements in the requirements regarding location are necessary. The members of the advisory committee agreed with our proposed improvements to this section but discussed at great length the need to formally define "location" and to close loopholes in the location process. The proposed requirements and timeframes herein, and the new section governing service of process, are a direct result of the advisory committee's discussions about the importance of improved location services.

1. Definition

The advisory committee stressed that the location function can only be considered complete or successful when the address received is accurate. Accordingly, we propose to define in § 303.3(a) "location" as the confirmed physical whereabouts of the absent parent or his or her employer(s), other sources of income, and/or assets. We

want to point out that the need for confirmation of the location information would depend on whether the information received is current (e.g., confirmation may not be necessary if address information received through accessing the Department of Motor Vehicles shows that the absent parent provided the address recently).

2. Location Sources

Current § 303.3(c) requires the IV–D agency to use appropriate State agencies and departments, which at a minimum must include those departments which maintain records of public assistance, unemployment insurance, income taxation, driver's licenses, vehicle registration and criminal records. We propose to redesignate paragraph (c) as (b)(3) and add departments which maintain records of employment and wage records to the list. Employment files are a particularly valuable location source because they are updated quarterly and often contain the most recent address information. This proposed change, together with the current requirements at § 303.3(a) and (b) (redesignated in this proposed rule as (b)(1) and (2)) for use of local location sources, should ensure that all available and appropriate sources are used to locate an absent parent.

This NPRM does not include any requirements on the use of private automated data sources. We specifically request comment on the possibility of including requirements or encouragement on the use of credit reporting agencies and the Postal Service contractor's recent mover data base.

3. Actions Required Within 30 Working Days

Current regulations at § 303.3(d) require the IV–D agency to utilize all appropriate State and local location sources within 60 days of referral of the case from the AFDC agency or application under § 302.33. Despite this 60-day timeframe for accessing State and local sources, the GAO report identified cases in their study which were closed due to what the State termed "inadequate information" about the alleged father. In addition, 20 of 43 States assessed penalties as a result of FY 1984, 1985 and 1986 program audits failed to comply substantially with program requirements for providing location services. Currently, the States and localities decide what location attempts are adequate and when a case can be closed. As the audit results and the GAO report indicate, IV–D agency efforts to locate absent parents are often inadequate.

We propose to redesignate current § 303.3(d) as (b)(4) and revise it to require that the IV–D agency, within 30 working days of referral of the case, application under § 302.33, or determination that location of the absent parent is unknown, access all appropriate location sources.

Inadequate location efforts are difficult to understand given the great strides States have made developing automated child support systems. Use of automated systems significantly reduces the time it takes to access location sources. Given today's automated access to many location sources, and the fact that the 60-day timeframe was set in 1978, prior to this automated access, we propose to reduce the time within which the IV–D agency must access all appropriate location sources to 30 working days in paragraph (b)(4).

We want to stress that child support case processing is a dynamic process. There may be many points in case processing where the IV–D agency cannot proceed because the absent parent moves or changes jobs or where the case otherwise necessitates further location efforts. The advisory committee was particularly concerned with the fact that current regulations put the emphasis on front-end location efforts but do not explicitly take into consideration situations where location services are necessary at a later point in case processing because, for example, the absent parent's location, although it may have been previously known, becomes unknown. To close this loophole, we propose to require in paragraph (b)(4) that these location requirements would again apply at any point where the State determines that location services are warranted (i.e., at any point in case processing where location is needed, the required location sources must be accessed within 30 working days of request for location as a result of determining that the location of the absent parent, employer, other source of income and/or assets is unknown). We believe 30 working days is reasonable given many States' capabilities for immediate or very rapid access to motor vehicle, employment security and other records. Nevertheless, we encourage comments on this timeframe.

We are proposing a parallel change to § 303.7(c)(4) which currently requires responding IV–D agencies, in interstate cases, to provide location services in accordance with § 303.3 within 60 days of receipt of an Interstate Child Support Transmittal Form, a URESA Action Request Forms package or other alternative State form and documentation from its interstate central registry. We propose to change the 60-day timeframe to 30 working days to be consistent with the 30 working day timeframe proposed in § 303.3(b)(4).

Paragraph (b)(5) would require that the IV–D agency transmit appropriate cases to the Federal PLS, including cases which qualify for submittal to the FPLS and for which State and local location efforts have been unsuccessful. While the Federal PLS is a valuable source, we want to avoid situations where cases are "shot-gunned" to the FPLS when State and local sources could provide accurate location information. We urge States to examine each case to decide which location sources would be the most appropriate. The 1984 Amendments amended section 453(f) of the Act to permit States to access the Federal PLS without first exhausting State PLS resources and States may now submit appropriate cases to the Federal and State PLS simultaneously without waiting to access local location sources. Except when States have reason to believe an absent parent/putative father lives or has assets out of State, we encourage States to use automated data sources before requesting Federal PLS services. We want to point out, however, that in interstate cases, the Federal PLS is accessed by the initiating State. The responding State is not required to access the Federal PLS again upon receipt of the case.

We also propose in paragraph (b)(6) that within 2 working days of location, the IV–D agency must initiate necessary action or service (i.e., establishment of paternity or a support order or enforcement of a support order). This requirement again is indicative of the advisory committee's concern that cases move forward as soon as one action is completed and the next appropriate and necessary action is determined. Necessary action includes referring a case to another State because the absent parent has been, or is presumed to be, located there, as specified in proposed paragraph (b)(7). Once a case has been referred by the central registry in the responding State to the appropriate State or local IV–D agency for processing, that case, although an interstate case, must be worked like any intrastate case, in accordance with the timeframes and standards in Part 303.

4. Continued Location Attempts

We believe it is critical for States to attempt periodically to locate absent parents or sources of income in cases in

which previous attempts have been unsuccessful to determine whether location information has become available. Accordingly, we propose to require in paragraph (b)(8) that the IV–D agency must repeat location attempts quarterly in appropriate cases in which previous attempts have failed but adequate information exists to meet the requirements for submittal for location. This 3-month cycle must coincide with quarterly updates to State employment security files.

This requirement to repeat location attempts in cases in which prior location attempts have failed is proposed because, as stated previously, often cases are closed or left unattended when insufficient effort has been made to pursue the case, or to reevaluate it after initial attempts to proceed were unsuccessful. We do not intend that States resubmit cases for location attempts if there is inadequate identification information on the absent parent. However, if adequate information exists but previous attempts have failed, States would be required to resubmit such cases because the subsequent attempts to locate may prove successful, e.g., the absent parent may have gotten a driver's license or a job. We specifically request comment on whether annual checks against Federal automated data sources should be required.

As previously discussed, the advisory committee urged us to revise the location section to ensure that location services are provided expeditiously at any such point in case processing when the location of the absent parent, source(s) of income, etc, is unknown. Accordingly, we propose to require in paragraph (9) that the IV–D agency must refer a case for location services within 5 working days of determining that location is necessary. This could occur at any time, for example, when the IV–D agency is in the process of establishing or modifying an order or enforcing an existing order. Once the case is referred for location services, the requirement and timeframes in § 303.3(b) would again apply.

Establishment of Support Obligations—Section 303.4

Current regulations at § 303.4 set forth requirements for IV–D agencies with regard to the establishment of support obligations in all cases referred to the IV–D agency or for which there are applications for IV–D services. We propose to amend § 303.4 by adding a new paragraph (d) which would require the IV–D agency, within 30 working days of locating the absent parent or establishing paternity, to establish a support order or file a petition with the court or administrative authority to establish a support obligation.

As stated previously, Congress attempted to alleviate public concerns regarding the lack of adequate and expeditious IV–D services by requiring in the 1984 Amendments that States have and use expedited processes to establish and enforce support obligations. Those expedited processes, and the timeframes in implementing regulations at § 303.101, only apply to cases once they are under administrative or judicial review. No corresponding timeframes exist within which IV–D agencies must file cases with the administrative or expedited judicial authority for support order establishment or enforcement. The result is large backlogs of cases in IV–D offices. Section 121 of Pub. L. 100–485 adds a new section 452(h) to the Act which requires the Secretary of HHS to impose timeframes within which States must respond to requests for assistance in establishing and enforcing support orders.

The initial proposal we presented to the advisory committee required that within 60 calendar days of locating the absent parent, the IV–D agency must establish a support order or file a petition with the court or administrative authority to establish a support obligation. We have subsequently revised this due to the group's concerns. First, while we urge States to establish paternity and a support order simultaneously except where prohibited by State law, the advisory committee believes that paternity and support orders are often established in separate proceedings. For this reason, the committee argued that the proposed timeframes should begin with locating the absent parent or establishing paternity. Because it is our intent that child support case processing flow quickly from one needed service to the next, we incorporated the advisory committee's suggestions in our proposal.

Secondly, the advisory committee convinced us that 30 working days (rather than the 60 calendar days in our proposal) is adequate to either establish an order by consent or to petition the court or administrative authority for support. Again the committee convinced us that if a IV–D agency is unable to establish an order administratively by consent in less than six weeks, a petition for support should be filed. We request comments, including any alternatives based on experience, on this timeframe.

Unless IV–D agencies process cases to the point of establishing an order by consent or petitioning the court or administrative authority to establish an order and serving process, the expedited process system in place in most States is useless. Timeframes for processing cases from application or referral of the case by the IV–D agency to establishment or enforcement of an order are necessary if we are to conform to Congressional intent in requiring expedited processes as part of the 1984 Amendments as well as in requiring timeframes for providing services in Pub. L. 100–485—that IV–D services be provided expeditiously.

The proposed case processing timeframes contained in this regulation are intended to encompass all necessary actions up to the point where the expedited processes timeframes requirements begin (i.e., a case is "filed"). Therefore, there should not be a gap between the timeframe requirements contained in this proposed rule and the timeframe requirements for expedited processes.

There is one further concern we would like to address. Currently, there are no requirements governing situations where a petition for a support order is dismissed without prejudice. Because this may occur for various legitimate reasons (e.g., the absent parent is currently unemployed, etc.), we believe it is necessary to ensure that every effort is made to establish a support order if circumstances upon which the dismissal is based change. Accordingly, we propose in § 303.4(e) that the IV–D agency must examine the reasons for dismissal, determine when it would be appropriate to seek an order in the future, and seek a support order at that time.

Establishment of Paternity—Section 303.5

This proposed rule would revise current requirements for paternity establishment at § 303.5.

1. Paternity Establishment Within One Year

As discussed previously, we propose to add timeframes for processing cases from the time of referral or application until the date the IV–D agency files a petition or serves process to establish or enforce a child support obligation with the court or administrative agency. Once a petition is filed or service of process is completed (depending on which date triggers expedited processes in the State), the required timeframes for expedited processes apply and ensure that 100 percent of those cases are processed within one year of the date of filing or service. The exception to this

scenario are complex issue cases or cases requiring paternity establishment.

The Child Support Enforcement Amendments of 1984 allow States to exclude paternity cases from their expedited processes. However, paternity establishment is a crucial step in the child support enforcement process. In the past States have been lax in the establishment of paternity, as reflected in IV–D program audit results (32 of 43 States penalized as a result of FY 1984, 1985 and 1986 audits were cited in paternity-related cases, either because of the State's failure to locate putative fathers or to establish paternity.) Often, States do not bother to attempt location in cases needing paternity establishment. Because of these audit results and the fact that paternity establishment cases are not subject to expedited process requirements unless the State opts to include them, we believe it is essential to set a time standard for establishing paternity.

We believe that strengthened paternity establishment standards and time limits are essential to improve State IV–D program performance. Therefore, we propose to amend § 303.5(a) to require that the IV–D agency must, within one year of locating the alleged father, establish paternity by court order or other legal process established under State law, establish paternity by voluntary acknowledgment if under current law such acknowledgment has the same effect as court-ordered paternity, or exclude the alleged father as a result of genetic tests. We want to stress, however, that the one-year time limit is intended as an outer limit. We urge States to attempt to establish paternity by voluntary acknowledgment or legal process immediately upon location of the alleged father, simultaneously with the establishment of an order if not prohibited by State law. The advisory committee was concerned that we include reference to cases in which paternity cannot be established because the putative father is excluded. Therefore, we have added this reference but limited it to exclusion as a result of genetic tests. We specifically request comment on whether there should be separate time requirements for uncontested paternity cases.

While this one-year timeframe may seem on its face to ignore cases in which paternity establishment may be difficult if not impossible, it is imperative to underscore the need to strengthen paternity establishment requirements because of the current exclusion of paternity establishment cases from the expedited processes requirements and the low priority States have given this essential function of child support enforcement. We consulted with the advisory committee with regard to the limited number of paternity cases which are impossible to resolve within one year despite the State's every effort. The committee believes that these very limited number of cases would easily be accounted for within the 25 percent margin allowed as part of the 75 percent substantial compliance audit standard. At such time as audit regulations are revised for consistency with case processing timeframes and program standards, a State would be cited in an audit if it failed to establish paternity or exclude the alleged father (discussed below) within one year in 75 percent of the cases reviewed for the audit.

2. Exclusion of the Alleged Fathers

Proposed § 303.5 would require that the IV–D agency must establish paternity or exclude the alleged father as a result of genetic tests within one year of locating the alleged father. In our discussions with the committee, questions were raised about whether or not IV–D agencies must pursue all alleged fathers or only one. To encompass situations where more than one alleged father has been identified, we propose to require in § 303.5(a)(2) that the IV–D agency must meet the requirements set forth in paragraph (a)(1) of this section for each alleged father identified, until paternity is established or each alleged father is excluded.

3. Use of Laboratories Which Perform Genetic Testing at Competitive Rates

Furthermore, this proposed regulation would revise current paragraph (c) to require IV–D agencies to identify and use laboratories which perform genetic testing at reasonable cost through competitive procurement. In the interest of competition and associated cost benefits, we deleted the reference limiting identification of laboratories to those within the State. State IV–D statistical and expenditure reports show vast differences in what States pay for genetic tests. The range, based on voluntary reporting of laboratory costs, is between $300 and $1500 per test. Effective October 1, 1988, as a result of Pub. L. 100–485, the Federal government pays 90 percent of the costs of genetic tests. To avoid situations where States use laboratories at exorbitant cost when there may be a laboratory available which performs comparable testing at more reasonable cost, OCSE will investigate what laboratories throughout the country charge for comparable genetic tests and report that data to States.

This proposed rule also would add the word "genetic" before "tests" in proposed paragraph (c) to more accurately reflect the advancements in, and increased refinement of, testing methods to determine paternity. Current paragraph (b) would not be changed.

To correspond with these proposed changes, § 304.20(b)(2) would be revised by changing the reference to blood tests to genetic tests and the reference to § 303.5(b) to § 303.5(c).

Enforcement of Support Obligations—Section 303.6

This proposed regulation would revise current requirements at § 303.6 by deleting the enforcement techniques listed in paragraphs (a) through (f) and adding monitoring and enforcement requirements in new paragraphs (a) through (c).

1. Monitoring Compliance With Orders and Identifying Delinquencies

Current regulations at § 303.6 require that the IV–D agency, for all cases under the State plan in which the obligation to support and the amount of the obligation have been established, must maintain an effective system for identifying, within 30 days, those cases in which there is a failure to comply with the support obligation and to contact such delinquent individuals as soon as possible in order to enforce the obligations and obtain the current support obligation and any arrearages.

Despite the above requirement that States must monitor cases, some IV–D agencies still rely on custodial parents informing them of a delinquency before they investigate compliance with the obligation and take action to enforce it. Effective and timely monitoring of compliance is essential in order to trigger income withholding in accordance with statutory requirements and to ensure timely use of other enforcement techniques as appropriate.

In addition, the statutory provision for States to have and use procedures for withholding wages or income requires that the absent parent become subject to withholding and that advance notice of the withholding be sent to the absent parent, at the latest, on the date on which the parent fails to make payments in an amount equal to the support payable for one month. Therefore, it is imperative that States identify delinquencies immediately in all cases when the debt equals the amount payable for one month. States may not wait 30 days after there is a delinquency to identify the delinquency.

We specifically request comment on whether the requirement for sending notice to a delinquent absent parent should be amended from "the State must take steps * * * to send the advance notice" on the day the delinquency reaches one month's support to "the State must send the advance notice" on that day. We also specifically request comment on whether States should be required to process uncontested wage withholding cases more quickly than contested cases.

We propose to delete the current 30-day timeframe and address the above-mentioned issues in several ways. First, proposed § 303.6(a) would require that the IV–D agency maintain and use an effective system for monitoring compliance with the support obligation. Advisory members encouraged us to clarify that monitoring includes monitoring of medical as well as cash support provisions of support orders. Under current requirements, the IV–D agency must communicate periodically with the Medicaid agency to determine if there have been lapses in health insurance coverage for Medicaid applicants and recipients. The IV–D agency then must take appropriate action to enforce the order when the Medicaid agency informs the IV–D agency that the absent parent has failed to secure health insurance coverage as ordered, or that health insurance coverage has lapsed. We request comment on whether wage withholding notices to employers should: (a) inform the employer when enrollment in employment based medical insurance has also been required by the support order, (b) request the employer to alert the IV–D agency if the absent parent has not enrolled the child(ren) in required medical insurance and (c) request the employer to enroll the child(ren) if the absent parent has not, where permitted by State law.

Additionally, we propose to require in paragraph (b) that the IV–D agency maintain and use an effective system for identifying those cases in which there is a failure to comply with the support obligation on the date the parent fails to make payments in an amount equal to the support payable for one month or earlier in accordance with State law.

2. Enforcement Actions

We would require in paragraphs (c)(1) and (2) that the State must initiate wage withholding in accordance with the requirements of § 303.100, and initiate any other appropriate enforcement technique, except Federal or State tax refund offset (which are available only once a year), within 30 working days of identifying a delinquency or other support-related non-compliance with the order. The committee supported this proposal.

This requirement would include taking appropriate enforcement action within 30 working days of notification of non-compliance with an order requiring health insurance coverage. In accordance with current medical support requirements, States must attempt to enforce a requirement in a support order that an absent parent obtain health insurance in cases of non-compliance with such an order. The enforcement action must be taken within 30 working days of being informed that the absent parent has failed to obtain health insurance or within 30 working days of being notified of a lapse in such coverage. In Medicaid-eligible cases, this would be within 30 working days of being informed by the State Medicaid agency of such non-compliance and in all other cases where the custodial parent has consented to such services, this would be within 30 working days of being notified by the custodial parent of non-compliance with the health insurance aspect of an order.

Section 302.70(b) specifies that a State need not apply procedures for State income tax refund offset, imposition of liens against real and personal property, giving security, posting a bond or giving some other guarantee to secure payment of support, or providing information on the amount of overdue support to consumer reporting agencies in a particular case "if the State determines that it is not appropriate using guidelines generally available to the public which take into account the payment record of the absent parent, the availability of other remedies, and other relevant considerations. The guidelines may not determine a majority of cases in which no other remedy is being used to be inappropriate." Therefore, if a State has developed guidelines specifying when use of these enforcement techniques would be inappropriate, the requirement in proposed § 303.6(c)(2) to initiate any appropriate enforcement technique within 30 working days would not apply if use of the technique is inappropriate in a given case, in accordance with those guidelines.

When use of a specific enforcement action requires service of process, process must be served within 10 working days of request for service of process, in accordance with § 303.9 of this proposed rule. This 10-day timeframe must be met within the 30 working day period proposed under § 303.6(c)(2) for enforcement action. Service of process is often an essential step in taking enforcement actions and traditionally many of the delays in providing support enforcement services are delays caused by slow service of process. The advisory committee indicated it is important to place a time limit on serving process and we propose that the service of process be accomplished as part of the overall timeframe for taking the necessary enforcement action. Proposed § 303.9 which addresses service of process requirements is discussed in more detail below.

With regard to Federal and State income tax refund offset, we propose to require in paragraph (c)(3) that States submit all cases which meet the certification requirements for State tax refund offset once a year, in accordance with § 303.102 and State guidelines developed under § 302.70(b), and for Federal tax refund offset in accordance with § 303.72. Federal and State income tax refund offset are particularly effective and efficient mechanisms for enforcing support orders. However, States have not taken full advantage of Federal tax refund offset as evidenced by vastly different State submission practices. To ensure maximum use of these effective enforcement techniques, cases meeting the certification requirements for Federal and State income tax refund offset, as set forth in §§ 303.72 and 303.102, must be submitted.

We propose to require in paragraph (c)(4) that in cases where previous enforcement attempts have been unsuccessful, the State must initiate appropriate enforcement techniques where it becomes aware of changes in the factors which determine the ability to use an enforcement technique. Because it is not acceptable to ignore cases when previous enforcement efforts have failed, States would be required to examine the factors quarterly. The State must keep abreast of case circumstances to determine when the potential for resumed enforcement efforts occurs and take all necessary actions in accordance with § 303.6 (c)(1) through (c)(3).

Because of the proposed changes discussed above, we propose to delete the current list of enforcement techniques in current § 303.6(a) through (f). There is no reason to list some enforcement actions or to try to list all techniques since States are required to take whatever enforcement action is warranted in a particular case.

Service of Process—Section 303.9

Service of process is a necessary element in child support establishment

and enforcement cases and many delays in providing services are directly caused by slow and ineffective attempts to serve process.

As specified in OCSE–AT–88–19, expedited processes timeframes apply beginning with the date a case is filed. A State may interpret "case filing" to mean the date the absent parent is served or the date a case is filed. If a State's trigger for the expedited processes timeframes is the date of successful service of process, service must be completed within the proposed case processing timeframes contained in this regulation. Alternatively, if a State's trigger for the expedited processes timeframe is the date a case is filed, service of process must occur within those expedited processes timeframes.

The committee discussed at length that it is crucial to place a time limit on requesting and serving process within the overall timeframes for taking certain actions. They were concerned that a case's forward movement not be halted because service of process is slow or not given adequate attention. Accordingly, we propose to add a new section § 303.9 to require that when service of process is necessary at any point in case processing, service of process must be requested within 2 working days of determination that service of process is necessary and must be completed, in accordance with paragraph (b), within, not in addition to, the overall timeframes for location, establishment of paternity and support orders, and enforcement. Paragraph (b) would require process to be served within 10 working days of the request for service of process.

In order to meet these timeframes, States will need to remedy deficiencies in service of process procedures. Committee members urged us to state clearly in this discussion the fact that, if IV–D agencies encounter difficulty in obtaining adequate and timely responses to requests for service of process, Federal funding at the applicable matching rate is available for the costs of hiring process servers or otherwise purchasing such services as necessary expenditures under the IV–D program. In addition, we urge States to examine alternatives to personal service and redefine what constitutes service of process. We believe that alternatives such as mail service and use of public or private process services on a performance-related contact basis can meet due process concerns and improve attempts to serve process. Simple and effective practices are described in an OCSE Service of Process monograph published in May of 1987 and other OCSE materials.

We recognize that there may be cases in which service of process takes an extended period of time or is impossible because an absent parent successfully avoids service. However, we discussed these concerns with the advisory committee and the committee was comfortable with the belief that this percentage of cases is small enough to be encompassed in the 25 percent margin allowed under the contemplated 75 percent audit standard. We encourage comments in this area.

Procedures for Case Assessment and Prioritization—Section 303.10

Because States may prioritize their IV–D caseload in accordance with the requirements for case assessment and prioritization at § 303.10, we are clarifying the State's responsibility for meeting the proposed requirements contained in this regulation if the State has a prioritization system. As stated in the preamble to the final rule, Procedures for Case Assessment and Prioritization (49 FR 36773, published September 19, 1984), the purpose of case prioritization is to improve case management, not to limit IV–D services. States are required to undertake to secure support and establish paternity in all cases. However, a State may use various case characteristics to determine the order in which cases will be worked.

In previous sections of this proposed rule, we have stressed the overwhelming need for more stringent requirements and standards for paternity establishment and the establishment and enforcement of support obligations. Because we have never intended that case prioritization schemes limit IV–D services, we believe it is necessary to clarify in the regulations governing case prioritization that the requirements in Part 303 must be met if a State implements a case prioritization system. Therefore, we propose to add to § 303.10(a) that, if a State adopts a case assessment and prioritization system, the IV–D agency must continue to meet the timeframes and case processing standards contained in Part 303. We believe this addition is necessary to clarify that prioritizing cases may not result in impeding case processing.

Current § 303.10(b)(5) requires a State, in implementing a case assessment and prioritization system, to prioritize cases after reviewing all intake information for accuracy and completeness and, if review indicates that additional information is needed, prioritize only after attempting to verify or secure the information. We propose to cross reference proposed § 303.2 in § 303.10(b)(5) to ensure that cases are prioritized only after the requirements for establishment of cases and maintenance of case records in proposed § 303.2 are met. Although we are proposing to reference all of Part 303 in § 303.10(a), as mentioned above, we believe that adding a reference to § 303.2 in paragraph (b)(5) is necessary because the initial actions required in proposed § 303.2 are essential to ensure adequate information is available on a case before a State determines the priority of working that case.

Finally, we propose to tie the case processing requirements in Part 303 to the requirement for periodic review of low priority cases contained in current § 303.10(b)(6). We propose to add to paragraph (b)(6) that periodic review of low priority cases must be in accordance with the standards set forth in Part 303, such as quarterly location attempts.

Case Closure Criteria—Section 303.11

Proposed § 303.11 would establish criteria States must use to determine whether child support cases may be closed. Current regulations are silent regarding any criteria which States must apply in evaluating caseloads for the purpose of case closure. This proposal would require State IV–D agencies to establish standards for closing cases which would limit cases the State may close to those in which there is no reasonable expectation of establishing paternity, obtaining a support order, or collecting child or spousal support, either now or in the foreseeable future. These criteria will ensure that dependent children and their custodial parents have the benefit of all the support enforcement services available where the potential for paternity establishment or establishment and enforcement of support exists. Any case not meeting at least one of the standards for closure must remain open and be worked by the State IV–D agency.

The establishment of a system of case closure will allow States to more effectively pursue cases in which circumstances pose reasonable expectations that support enforcement services will result in paternity or support order establishment and the enforcement of orders. State IV–D agencies will be able to close cases with little or no potential for success, currently and in the foreseeable future, and focus their resources on cases with establishment or enforcement potential.

The GAO report mentioned previously noted that the prioritization regulations did not specifically address case closure

and applied only to those States which opted to use case prioritization procedures. The GAO found that five of the eight sample IV–D offices reviewed for the report did not have written prioritization procedures, and that a significant number of cases were closed by the offices prematurely without adequately pursuing the establishment of paternity and support orders. The report recommended that OCSE develop case closure criteria for IV–D agencies to ensure that efforts to determine paternity and obtain support orders and provide other assistance are adequate.

It is in the best interests of both children and their custodial parents, as well as State IV–D agencies, that clearly defined regulatory standards be established for case closure. At the present time each State may establish case closure criteria, subject only to the requirements mentioned above. Where the State has no standards for case closure and does not periodically evaluate unworkable cases, the IV–D agency is forced to spread available resources inefficiently, resulting in less than effective service given to cases with demonstrated potential for success. In other circumstances, the lack of standards for case closure, or the establishment of standards which are too broad, can result in the arbitrary closing of cases which should have remained open, and the failure to establish paternity and support orders or to collect needed support.

Some States have shown that a careful delineation of case closure criteria can result in program performance improvements; refocusing resources formerly spent unproductively can increase support order establishment and enforcement. In the summer of 1987, OCSE collected and evaluated available information regarding existing State practices and case closure criteria and used this information in developing these proposed criteria.

The advisory committee reviewed and discussed the proposed criteria. Members of the committee agreed with the need for case closure criteria and support the proposed criteria discussed below as reasonable.

If a case does not meet at least one of the following proposed criteria, it must be kept open and worked. However, because current regulations at § 303.10 allow States to establish procedures for case prioritization, States may distinguish between those cases with current success potential and those which do not now, but may in the future, have potential for success. This latter group could include the cases which do not meet the criteria for closure but in which the next required case processing step cannot be taken. Requirements for periodic review in § 303.10 governing case prioritization systems, and elsewhere in Part 303, would apply in these cases.

The proposed § 303.11 would be entitled "Case closure criteria." A new paragraph (a) would require States to establish a system for case closure. Paragraph (b) would establish the criteria for case closure eligibility.

Paragraph (b)(1) would allow closure of a case where the child has reached the age of majority, there is no longer a current support order, and either no arrearages are owed or arrearages are under $150. We believe that this will allow States to reduce caseloads where there is no longer a minor child and arrearages are relatively small. This provision would also ensure that an obligor could not avoid support obligations by evading their support responsibilities until the child reached the age of majority if the amount of past-due support owed was substantial (i.e., over $150).

Proposed § 303.11(b)(2) would allow case closure where the child has not reached the age of majority, arrearages are less than $150, and there is no longer a current support order. Circumstances in which a child has not reached the age of majority but there is no longer a current support order might include termination of parental rights or reconciliation of the child's parents. Termination of parental rights might occur in cases where the child has been legally adopted or has become legally emancipated through marriage. In cases where the parents have reconciled, there would no longer be an absent parent.

Proposed § 303.11(b)(3) would allow a State to close a case upon the death of the absent parent, or putative father, if there are no resources available in the estate from which to recover support. A delinquent absent parent may have assets which he or she has protected from collection procedures, and the parent's death may release these assets for collection by the IV–D agency. States should establish routine procedures for ascertaining the extent of any assets which may be available, including availability of assets upon the death of an absent parent. In the case of the death of a putative father, the IV–D agency should also continue to pursue a paternity action to conclusion if there are assets which can be identified, including social security or other retirement survivors' benefits.

Under proposed paragraph (b)(4), the IV–D agency may close cases in which, either the child is at least 18 years old and the action is barred by a statute of limitations which meets the requirements of § 302.70(a)(5), or the putative father is excluded and no other putative father can be identified. Requiring the IV–D agency to keep cases open beyond this point will serve no useful purpose. In addition, paragraph (b)(4) would specify that, in accordance with § 303.5(b), the IV–D agency need not attempt to establish paternity in any case involving incest or forcible rape, or in any case where legal proceedings for adoption are pending, if, in the opinion of the IV–D agency, it would not be in the best interests of the child to establish paternity.

Although proposed paragraph (b)(4) would allow closure of cases needing paternity establishment under specific, limited conditions, we urge States to make every effort, using all resources available, to establish paternity in every case which requires such action.

Proposed paragraph (b)(5) would allow case closure where the IV–D agency has been unable to locate an absent parent despite having made repeated location efforts using multiple sources, including those listed under § 303.3, over a three-year period. We believe that, if a State has made such efforts, the likelihood of success beyond the three-year period is extremely low. However, we are particularly interested in receiving comments on the three-year, or any other, timeframe in this proposal. Comments on individual or State experience which may support or discredit these proposed timeframes are encouraged.

Paragraph (b)(6) would allow case closure if the absent parent is unable to pay support during the duration of the child's minority because he or she has been institutionalized for at least five years or is incarcerated with a sentence of at least 12 years remaining to be served with no chance for parole. In such cases, the State must also determine that no income or assets are available to the absent parent which could be levied or attached. Income would include earnings while incarcerated. In the case of an institutionalized or incarcerated parent where the timeframes established above have not been met, a IV–D agency which prioritizes cases in accordance with § 303.10 may wish to place the case in a low priority file and review the case periodically for available assets and to determine any change in status.

Paragraph (b)(7) would allow a case to be closed when the absent parent is a citizen of, and lives in, a foreign country, does not work for the United States government or a company which has its headquarters or offices in the United

States, and has no reachable domestic income or assets; and the State has been unable to establish reciprocity with the country. If the absent parent resides abroad and the case does not qualify for closure under the above criteria (i.e., reciprocity has been established, or the parent works for a U.S. agency or a company with headquarters or offices in the United States), the State should have a good chance of establishing paternity or establishing and enforcing support. In addition, if an absent parent residing abroad meets all the other criteria for closure in this subparagraph, but is a U.S. citizen, the case should not be closed, since a return to the United States is a possibility. Such cases may qualify for inclusion in a suspense file established under § 303.10.

Paragraph (b)(8) would allow a case to be closed if the resident parent, legal guardian, attorney, or agent of a child requested the State parent locator service (PLS) to submit a request to the Federal PLS under the provisions of § 302.35(c)(3) and the location services have been completed. The advisory committee asked that we clarify that this is a special category of cases in which Federal PLS access only, not full IV–D services, is requested.

Paragraph (b)(9) would allow case closure in a non-AFDC case or in a former AFDC, Medicaid or foster care (title IV–E) case when the custodial parent requests that the case be closed and there are no arrearages assigned to the State. No such option is available to the custodial parent in an open AFDC, Medicaid or foster care case where support has been assigned to the State in accordance with section 402(a)(26) or 1912 of the Act.

Paragraph (b)(10) would allow the IV–D agency to close a case when it has been notified by the IV–A or IV–E agency, in accordance with § 302.31(c), that there has been a finding of good cause for the recipient's failure to cooperate in obtaining support and the IV–A or IV–E agency has determined that paternity establishment or support establishment and enforcement may not proceed without risk or harm to the child or caretaker relative.

Paragraph (c) would require the State, 60 calendar days prior to any case closure because of criteria in paragraphs (b) (1) through (7), to notify the custodial parent in writing of the State's intent to close the case. If a case is closed, the custodial parent may request at a later date that the case be reopened if there is a change in circumstances which could lead to the establishment of paternity or a support order, or enforcement of an order.

Paragraph (d) would require the IV–D agency to retain all records for cases closed pursuant to this section for a minimum of three years, in accordance with 45 CFR Part 74, Subpart D.

However, because some families tend to remain on AFDC for long periods of time or leave and then return to the AFDC rolls, States should consider keeping at least minimal information on closed AFDC IV–D cases (e.g., the date and the reason for closure) to avoid duplication of effort should the case be referred again for IV–D services at some, much later, date.

Minimal Organizational and Staffing Requirements—Section 303.20

We believe that the goal of efficient and effective IV–D programs cannot be achieved unless States and localities have an organizational structure and sufficient resources to meet the performance and time standards proposed in this rule. Therefore, we propose to amend current § 303.20(c), minimal organizational and staffing requirements, by requiring that there must be an organizational structure and sufficient resources at the State or local level to meet the performance standards contained in Part 303.

To further ensure effective child support programs, we propose to amend current § 303.20 by adding a new paragraph (g) which would state that, if it is determined as a result of an audit under Part 305 that a State is not in substantial compliance with title IV–D of the Act, the Secretary will evaluate whether insufficient program resources were a contributing factor and, if necessary, may prescribe specific standards for the State.

We discussed the subject of adequate staffing and sufficient resources with the committee. They agreed that inadequate resources, e.g., insufficient staff and inadequate computer capabilities, often result in poor child support services. Perceived resource deficiencies may also stem from or be exacerbated by fragmented and inefficient organizational arrangements, poor work flow, inadequate policies and procedures, and lack of staff training, among other factors. The committee could offer no clear solution to the problem other than States need to focus attention on child support efforts and realign priorities and/or increase available resources to realize the potential of the program's goals. The fact is that, although there is a general requirement that States adequately staff and manage IV–D programs to ensure compliance with Federal requirements, this requirement has never been quantified and thus many have not done so. Each State should examine the overall management and operation of it's IV–D program and, as necessary, consider transferring existing resources or reordering priorities for the benefit of the program which has a high potential for generating revenues for the State as well as for ensuring support for those in need.

Finally, for consistency with the previously mentioned proposal to delete the list of enforcement techniques in § 303.6, we propose to amend § 303.20(c)(7) by replacing the list of available enforcement techniques with a requirement that the activities to enforce collection of support must include wage withholding and other available enforcement techniques.

Incentive Payments to States and Political Subdivisions—Section 303.52 and Proposed Section 304.12

Current § 303.52 sets forth requirements governing incentive payments to both States and political subdivisions. Because regulations for incentive payments, for the most part, govern a financial aspect of the program and do not therefore properly belong in Part 303, which establishes program standards, OCSE is proposing to transfer § 303.52 (a), (b) and (c) to 45 CFR Part 304, Federal Financial Participation. We are proposing this technical change because we believe that this section would be more appropriately located in Part 304 since it is not directly related to program operations. Accordingly, current 45 CFR 303.52(d) would be redesignated as § 303.52. Furthermore, we propose to change the section title, Incentive payments to States and political subdivisions, to Pass-through of incentives to political subdivisions, since this is the only requirement remaining in this section.

To implement the provisions of sections 103(e) and 127 of Pub. L. 100–485, we propose to amend regulations governing incentive payments (proposed § 304.12) in two ways. First, we propose to implement section 127, which amends section 458(d) of the Act to exclude the costs of interstate grants when computing incentive payments, by revising paragraph (b)(4)(v) to state that, effective January 1, 1990, in calculating the amount of incentive payments, amounts expended by the State in carrying out a special project under section 455(e) of the Act shall not be included in the State's total IV–D administrative costs. In addition, we propose to implement section 103(e) of Pub. L. 100–485 by adding a new paragraph (vi) which would state that

the costs of demonstration projects for evaluating model procedures for reviewing child support awards under section 103(e) of Pub. L. 100-485 shall not be included in a State's total IV-D administrative costs for purposes of computing incentives.

For consistency with the redesignation of most of § 303.52 as § 304.12, all references to § 302.52 (a) through (c) in other regulations would be changed to refer to § 304.12.

Medical Support Enforcement—Part 306

Currently, Part 306 is divided into two subparts. Current Subpart A contains requirements governing optional cooperative agreements and Subpart B contains required IV-D medical support activities. Because Subpart B contains medical support enforcement requirements which should more appropriately appear in Part 303, we propose to move the requirements under current Subpart B (§ 306.50, Securing medical support information, and § 306.51, Securing medical support obligations) to Part 303 as new §§ 303.30 and 303.31, respectively. The regulations under current Subpart A would remain as Part 306 without the heading of Subpart A.

For consistency with the changes and redesignations within Part 306, all references in program regulations to regulations in current Part 306 would be changed to reflect the transfer of the contents of Subpart B to Part 303 and the redesignation of Subpart A of Part 306 as Part 306.

Economic Impact

The Child Support Enforcement program was established under title IV-D of the Act by the Social Services Amendments of 1974, for the purposes of enforcing the support obligations owed by absent parents to their children, locating absent parents, establishing paternity and obtaining child support. The IV-D program collected some $4.7 billion in FY 1988—over $1.5 billion on behalf of children receiving AFDC and the remainder on behalf of children not receiving AFDC. State and local expenditures amounted to $1.2 billion. Collections for AFDC families, after a $50 disregard, are used to offset the costs of assistance payments made to such families. The intent of this proposed regulation is to improve the efficiency and effectiveness of IV-D programs. Because this proposed rule strengthens and clarifies existing program operations regulations, it is expected that State performance will improve and cases will be worked more effectively. Any increase in administrative costs will be minimized if States transfer existing resources to concentrate on child support enforcement efforts and will be more than offset by an increase in collections. The principal impact of the regulation will be on State operations. State expenditures may increase initially; however, we believe that the increase will be more than offset by the increase in collections, and therefore, a net savings to State governments will result.

Executive Order 12291

The Secretary has determined, in accordance with Executive Order 12291 that this rule does not constitute a "major" rule. A major rule is one that is likely to result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This rule clarifies and strengthens current regulations governing IV-D program operations and any increase in administrative costs to the States will be more than offset by increased collections under the program. If States reallocate existing resources to concentrate efforts on child support enforcement, the return on that investment of resources will far exceed any initial increase in cost to the State.

The proposed case closure criteria contained in § 303.9 should result in improved performance of State IV-D agencies because it will ensure that available resources are focused on IV-D cases in which there is a potential for paternity establishment and support order establishment and enforcement. It will allow States to close unworkable cases and improve the management of their caseloads. Increased efforts focused on workable cases should result in increased collections, and in AFDC cases, increased savings to the State and Federal governments.

Regulatory Flexibility Analysis

The Secretary certifies, under 5 U.S.C. 605(b), as enacted by the Regulatory Flexibility Act (Pub. L. 96-354), that this regulation will not result in a significant impact on a substantial number of small entities. The primary impact is on State governments and individuals, which are not considered small entities under the Act.

Lists of Subjects

45 CFR Parts 301, 303 and 304

Child support, Grant programs—social programs, Reporting and recordkeeping requirements.

45 CFR Part 302

Child support, Grant programs—social programs, Penalties, Reporting and recordkeeping requirements, Unemployment compensation.

45 CFR Part 306

Child support, Grant programs—social programs, Medicaid, Reporting and recordkeeping requirements.

45 CFR Part 307

Child support, Grant programs—social programs, Computer technology, Reporting and recordkeeping requirements.

(Catalog of Federal Domestic Assistance Program No. 13.783, Child Support Enforcement Program.)

Dated: April 6, 1989.

Catherine Bertini,

Acting Director, Office of Child Support Enforcement.

Approved: April 6, 1989.

Louis W. Sullivan,

Secretary.

For the reasons set forth in the preamble, 45 CFR Parts 301 through 304, 306 and 307 are proposed to be amended as set forth below.

PART 301—[AMENDED]

1. The authority citation for Part 301 continues to read as follows:

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

§§ 301.1, 306.1, and 303.52 [Amended]

2. Section 301.1 is amended by moving the definitions of "Medicaid agency" and "Medicaid" which are currently in § 306.1 (b) and (c) and removing the paragraph designations, and inserting the definitions after the definition of "IV-D agency" and by moving the definition of "Political subdivision" which is currently in § 303.52(a) and inserting it after the definition of "Past-due support".

PART 302—[AMENDED]

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

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

2. Section 302.32 is amended by the revising the first sentence of paragraph

(b) and adding paragraph (f) to read as follows:

§ 302.32 Support payments to the IV-D agency.

* * * * *

(b) The IV-D agency must inform the State's IV-A agency of the amount of the collection which represents payment on the required support obligation for the month as determined in § 302.51(a) within 10 working days from the date of receipt by the IV-D agency responsible for final distribution of the collection.

* * *

* * * * *

(f) *Timeframes for distribution of support payments.* (1) In interstate IV-D cases, amounts collected by the responding State on behalf of the initiating State must be forwarded to the initiating State within 10 working days of the initial point of receipt in the responding State, in accordance with § 303.7(c)(7)(iv).

(2) Amounts collected by the IV-D agency on behalf of current recipients of aid under the State's title IV-A or IV-E plan for whom an assignment under § 232.11 of this title or section 471(a)(17) of the Act is effective shall be distributed as follows:

(i) Payments to the family in AFDC cases under § 302.51(b)(1) of this part must be made within 15 working days of the date of initial receipt in the State.

(ii) Except as specified under paragraph (f)(1)(iv) of this section, collections distributed under § 302.51(b)(2) through (5) of this part must be distributed within 15 working days of notice of eligibility redetermination by the IV-A agency, but may be distributed prior to eligibility redetermination at the IV-D agency's discretion.

(iii) Except as specified in paragraph (f)(1)(iv) of this section, collections in title IV-E foster care cases must be distributed within 15 working days of the date of initial receipt in the State.

(iv) Collections as a result of Federal or State tax refund offset must be distributed in AFDC cases under § 302.51(b)(4) and (5) and in title IV-E foster care cases under § 302.52(b)(3) and (4) within 15 working days of the date of initial receipt in the State.

(3) Amounts collected on behalf of individuals receiving services under § 302.33 of this part shall be distributed as follows:

(i) Amounts collected which represent payment on the current support obligation shall be paid to the family within 15 working days of the date of initial receipt in the State.

(ii) Except as specified in paragraph (f)(2)(iii), if the amount collected is more than the amount required to be distributed in paragraph (f)(2)(i) of this section, the State may at its discretion either pay such amounts to the family to satisfy past-due support within 15 working days of the date of initial receipt in the State or retain such amounts as have been assigned to satisfy assistance paid to the family which has not been reimbursed.

(iii) Amounts collected as a result of Federal income tax refund offset to satisfy past-due support in non-AFDC cases shall be distributed under § 302.51(b)(4) and (5) within 15 working days of the date of initial receipt in the State, except as provided in § 303.72(h)(5) of this chapter.

§ 302.51 [Amended]

3. Section 302.51 is amended by changing all references to "§ 303.52" to "§ 304.12," by removing the sentence "In any case in which collections are received by an entity other than the agency responsible for final distribution under this section, the entity must transmit the collection within 10 days of receipt." in paragraph (a), and by removing the sentence "This payment shall be made in the month following the month in which the amount of the collection was used to redetermine eligibility for an assistance payment under the State's title IV-A plan." in paragraphs (b) (3) and (5).

§ 302.55 [Amended]

4. Section 302.55 is amended by changing reference to "§ 303.52" to "§ 304.12" and the reference to "§ 303.52(d)" to "§ 303.52".

§ 302.80 [Amended]

5. Section 302.80 is amended by removing the words "Subpart A of" in paragraph (a) and replacing the words "Subpart B of Part 306" in paragraph (b) with the words "§§ 303.30 and 303.31".

PART 303—[AMENDED]

1. The authority citation for Part 303 continues to read as follows:

Authority: 42 U.S.C. 651 through 658, 660, 663, 664, 666, 667, 1302, 1396a(a)(25), 1396b(d)(2), 1396b(o), 1396b(p) and 1396(k).

2. Part 303 is amended as follows:

§ 303.0 [Amended]

a. Section 303.0 is amended by removing the words "effective July 1, 1975;" in paragraph (a).

b. Section 303.2 is revised to read as follows:

§ 303.2 Establishment of cases and maintenance of case records.

(a) The IV-D agency must:

(1) Make applications for child support services readily accessible to the public;

(2) Provide applications on the day an individual requests an application or services. Information describing available services, the individual's rights and responsibilities, and the State's fees, cost recovery and distribution policies must accompany all applications for services; and

(3) Accept an application as filed on the day it is received. An application is a written document provided by the State which indicates that the individual is seeking assistance with a child support problem and is signed by the individual applying for IV-D services.

(b) For all cases referred to the IV-D agency or applying for services under § 302.33 of this chapter, the IV-D agency must open a case within two working days of receipt of referral or application for services by establishing a case record. The case record must be supplemented with all information and documents pertaining to the case, as well as all relevant facts, dates, actions taken, contacts made and results in a case.

(c) Within 15 working days of receipt of referral of a case or of an application for services under § 302.33, based on an assessment of the case to determine necessary action:

(1) Solicit necessary and relevant information from the custodial parent and other relevant sources and initiate verification of information;

(2) Access all appropriate State and local automated sources to determine the absent parent's address, employer, income and assets, if necessary;

(3) If there is adequate location information to proceed with the case, initiate appropriate service within 2 working days of determination of next appropriate action or service; and

(4) If there is inadequate location information to proceed with the case, request additional information or refer the case for further location attempts, as specified in § 303.3.

c. Section 303.3 is revised to read as follows:

§ 303.3 Location of absent parents.

(a) *Definition.* "Location" means the confirmed physical whereabouts of the absent parent, his or her employer(s), other sources of income and/or assets.

(b) For all cases referred to the IV-D agency or applying for services under § 302.33 of this chapter, the IV-D agency must attempt to locate all absent parents or sources of income and/or assets when their location is unknown. Under this standard, the IV-D agency must:

(1) Use appropriate local locate sources such as officials and employees

administering public assistance, general assistance, medical assistance, food stamps and social services (whether such individuals are employed by the State or a political subdivision), relatives and friends of the absent parent, current or past employers, the local telephone company, the U.S. Postal Service, financial references, unions, fraternal organizations, and police, parole, and probation records if appropriate;

(2) Establish working relationships with all appropriate local agencies in order to utilize local locate resources effectively;

(3) Use appropriate State agencies and departments, which at a minimum must include those departments which maintain records of public assistance, wages and employment, unemployment insurance, income taxation, driver's licenses, vehicle registration, and criminal records;

(4) Within 30 working days of referral of the case, application under § 302.33 or request for location in accordance with paragraph (b)(8) of this section, access all appropriate location sources;

(5) Transmit appropriate cases to the Federal PLS, including cases which qualify for submittal to the FPLS and for which State and local location efforts have been unsuccessful;

(6) Within 2 working days of location, initiate necessary action or service;

(7) Refer appropriate cases to the IV-D agency of any other State, in accordance with the requirements of § 303.7 of this Part. The IV-D agency of such other State shall follow the procedures in paragraphs (b) (1) through (8) of this section for such cases, as necessary except that the responding State is not required to access the Federal PLS under section (b)(4) of this section;

(8) Repeat location attempts quarterly in appropriate cases in which previous attempts to locate absent parents or sources of income and/or assets have failed, but adequate information exists to meet requirements for submittal for location, in conjunction with quarterly updates of State employment security files; and

(9) If at any point in case processing the absent parent's location or location of sources of income and/or assets becomes unknown, refer for location services within 5 working days of determining that location is unknown.

d. The introductory text of § 303.4 is republished and the section is amended by adding new paragraphs (d) and (e) to read as follows:

§ 303.4 Establishment of support obligations.

For all cases referred to the IV-D agency or applying for services under § 302.33 of this chapter, the IV-D agency must:

* * * * *

(d) Within 30 working days of locating an absent parent or establishing paternity, establish a support order or file a petition for establishment of a support order with the court or administrative authority responsible for establishment of obligations;

(e) If the court or administrative authority dismisses a petition for a support order without prejudice, the IV-D agency must examine the reasons for dismissal, determine when it would be appropriate to seek an order in the future, and seek a support order at that time.

e. Section 303.5 is amended by revising paragraphs (a) and (c) to read as follows:

§ 303.5 Establishment of paternity.

(a) For all cases referred to the IV-D agency or applying for services under § 302.33 of this chapter in which paternity has not yet been established, the IV-D agency must:

(1) Within one year of locating the alleged father:

(i) Establish paternity by court order or other legal process established under State law;

(ii) Establish paternity by acknowledgment if under State law such acknowledgment has the same legal effect as court-ordered paternity, including the right to benefits other than child support; or

(iii) Exclude the alleged father as a result of genetic tests.

(2) In any case where an alleged father is excluded but more than one alleged father has been identified, the IV-D agency must meet the requirements set forth in paragraph (a)(1) of this section for each alleged father identified.

* * * * *

(c) The IV-D agency must identify and use through competitive procurement laboratories which perform, at reasonable cost, legally and medically acceptable genetic tests, including blood tests, which tend to identify the father or exclude the alleged father. The IV-D agency must make available a list of such laboratories to appropriate courts and law enforcement officials, and to the public upon request.

f. Section 303.6 is revised to read as follows:

§ 303.6 Enforcement of support obligations.

For all cases referred to the IV-D agency or applying for services under § 302.33 in which the obligation to support and the amount of the obligation have been established, the IV-D agency must maintain and use an effective system for:

(a) Monitoring compliance with the support obligation;

(b) Identifying on the date the parent fails to make payments in an amount equal to the support payable for one month, or on an earlier date in accordance with State law, those cases in which there is a failure to comply with the support obligation; and

(c) Enforcing the obligation by:

(1) Initiating income withholding, in accordance with § 303.100;

(2) Initiating any other available enforcement technique, except Federal and State income tax refund offset, as appropriate in accordance with § 302.70(b) of this Chapter, within 30 working days of identifying a delinquency or other support-related noncompliance with the order;

(3) Submitting once a year, all cases which meet the certification requirements for State income tax refund offset, in accordance with § 303.102 and State guidelines developed under § 302.70(b), and for Federal income tax refund offset, in accordance with the requirements of § 303.72 of this part; and

(4) In cases where previous enforcement attempts have been unsuccessful, examine the factors which determine the ability to use an enforcement technique quarterly and initiate appropriate enforcement techniques as appropriate in accordance with the requirements of this section.

§ 303.7 [Amended]

g. Section 303.7(c) is amended by amending paragraph (c)(4) to replace the words "60 days" with the words "30 working days" and by adding the words "with the exception of the requirement to access the Federal PLS in § 303.3(b)(4)." after "§ 303.3 of this part" in paragraph (c)(4)(i).

h. A new § 303.9 entitled "Service of process" is added to read as follows:

§ 303.9 Service of process.

(a) When service of process is necessary at any point in case processing, service of process must be requested within 2 working days of a determination that service of process is necessary and must be completed in accordance with paragraph (b) of this section within the overall timeframes for

location, establishment of paternity and support orders and enforcement set forth in this Part; and

(b) Process must be served within 10 working days of the request for service of process.

i. The introductory text of § 303.10(b) is republished and § 303.10 is amended by revising paragraphs (a), (b)(5) and (b)(6) to read as follows:

§ 303.10 Procedures for case assessment and prioritization.

(a) The IV–D agency may implement a case assessment and prioritization system Statewide or in a particular political subdivision of the State to manage its caseload. If a IV–D agency implements a case assessment and prioritization system, the IV–D agency must continue to meet the timeframes and case processing standards contained in this Part.

(b) In implementing a case assessment and prioritization system, the IV–D agency must:

* * * * *

(5) Prioritize cases after reviewing all intake information for accuracy and completeness and, if review indicates that additional information is needed, prioritize only after attempting to verify or secure the information in accordance with § 303.2.

(6) Establish a mechanism for the periodic review of low priority cases in accordance with the standards set forth in Part 303, and for notifying the custodial parent in these cases that new information may result in a higher priority for the case.

j. A new § 303.11 entitled "Case closure criteria" is added to read as follows:

§ 303.11 Case closure criteria.

(a) The IV–D agency shall establish a system for case closure.

(b) In order to be eligible for closure, the case must meet at least one of the following criteria:

(1) In the case of a child who has reached the age of majority, there is no longer a current support order and arrearages are under $150;

(2) In the case of a child who has not reached the age of majority, there is no longer a current support order and arrearages are under $150;

(3) The absent parent or putative father is deceased and no further action, including a levy against the estate, can be taken;

(4) Paternity cannot be established because:

(i) the child is at least 18 years old and action to establish paternity is barred by a statute of limitations which meets the requirements of § 302.70(a)(5) of this chapter;

(ii) a court or administrative process has excluded the putative father and no other putative father can be identified; or

(iii) in accordance with § 303.5(b) of this part, the IV–D agency has determined that it would not be in the best interests of the child to establish paternity in a case involving incest or forcible rape, or in any case where legal proceedings for adoption are pending;

(5) The absent parent's location is unknown, and the State has made regular attempts using multiple sources to locate the absent parent over a three-year period, all of which have been unsuccessful;

(6) The absent parent cannot pay support for the duration of the child's minority because the parent has been institutionalized in a psychiatric facility for at least five years or is incarcerated with a sentence of at least 12 years remaining to be served and there is no chance for parole. The State must also determine that no income or assets are available to the absent parent which could be levied or attached for support;

(7) The absent parent is a citizen of, and lives in, a foreign country, does not work for the Federal government or a company with headquarters or offices in the United States, and has no reachable domestic income or assets; and the State has been unable to establish reciprocity with the country;

(8) The IV–D agency has provided location-only services as requested under § 302.35(c)(3) of this chapter;

(9) The non-AFDC custodial parent requests closure of a case and there is no assignment to the State of arrearages which accrued under a support order; or

(10) There has been a finding of good cause as set forth at §§ 302.31(c) and 232.40 through 232.49 of this chapter and the State or local IV–A or IV–E agency has determined that support enforcement may not proceed without risk or harm to the child or caretaker relative.

(c) In cases meeting the criteria in paragraphs (b) (1) through (7) of this section, the State must notify the custodial parent in writing 60 calendar days prior to closure of the case of the State's intent to close the case. If the case is closed, the custodial parent may request at a later date that the case be reopened if there is a change in circumstances which could lead to the establishment of paternity or a support order or enforcement of an order.

(d) The IV–D agency must retain all records for cases closed pursuant to this section for a minimum of three years, in accordance with 45 CFR Part 74, subpart D.

k. Section 303.20 is amended by revising the introductory language in paragraph (c) and paragraph (c)(7) and adding new paragraph (g) to read as follows:

§ 303.20 Minimum organizational and staffing requirements.

* * * * *

(c) There is an organizational structure and sufficient resources at the State and local level to meet the performance and time standards contained in this part and to provide for the administration or supervision of the following support enforcement functions:

* * * * *

(7) *Enforcement.* Activities to enforce collection of support, including income withholding and other available enforcement techniques.

* * * * *

(g) If it is determined as a result of an audit conducted under Part 305 of this chapter that a State is not in substantial compliance with the requirements of title IV–D of the Act, the Secretary will evaluate whether inadequate resources was a major contributing factor and, if necessary, may set resource standards for the State.

§§ 303.30 and 303.31 [Redesignated From 306.50 and 306.51 Respectively]

l. Section 306.50 is redesignated as a new § 303.30 and § 306.51 is redesignated as a new § 303.31.

§§ 303.52 and 301.1 [Amended]

m. In § 303.52, the definition of "Political subdivision" is moved from paragraph (a) to § 301.1 and § 303.52 is revised to read as follows:

§ 303.52 Pass-through of incentives to political subdivisions.

The State must calculate and promptly pay incentives to political subdivisions as follows:

(a) The State IV–D agency must develop a standard methodology for passing through an appropriate share of its incentive payment to those political subdivisions of the State that participate in the costs of the program, taking into account the efficiency and effectiveness of the activities carried out under the State plan by those political subdivisions. In order to reward efficiency and effectiveness, the methodology also may provide for payment of incentives to other political subdivisions of the State that administer the program.

(b) To ensure that the standard methodology developed by the State reflects local participation, the State IV–D agency must submit a draft methodology to participating political subdivisions for review and comment or use the rulemaking process available under State law to receive local input.

§ 303.72 [Amended]

n. Section 303.72(g)(8) is amended by changing the reference to "§ 303.52" to "§ 304.12."

§ 303.73 [Amended]

o. Section 303.73(a)(1) is amended by changing the reference to "§ 303.7(a)(3)" to "§ 303.7."

§ 303.100 [Amended]

p. Section 303.100(e)(2) is amended by removing the word "promptly" after the word "distributed".

§ 303.102 [Amended]

q. Section 303.102(g)(1) is amended by removing the words "Within a reasonable time period in accordance with State law," and capitalizing the word "a" before the word "State".

PART 304—[AMENDED]

1. The authority citation in Part 304, continues to read as follows:

Authority: 42 U.S.C. 651 through 655, 657, 1302, 1396a(a)(25), 1396b(d)(2), 1396b(o), 1396b(p), and 1396(k).

2. Part 304 is amended by adding a new § 304.12, entitled "Incentive payments" and by amending §§ 304.20(b)(2), 304.23 and 304.26 as follows:

§ 304.12 Incentive payments

(a) *Definitions.* For the purposes of this section: "AFDC collections" means support collections satisfying an assigned support obligation under § 232.11 of this title or section 471(a)(17) of the Act, including collections treated in accordance with paragraph (b)(4)(ii) of this section.

"Non-AFDC Collections" means support collections, on behalf of individuals receiving services under this title, satisfying a support obligation which has not been assigned under § 232.11 of this title or section 471(a)(17) of the Act, including collections treated in accordance with paragraph (b)(4)(ii) of this section and collections made under § 302.51(e) of this chapter.

"Total IV–D administrative costs" means total IV–D administrative expenditures claimed by a State in a specified fiscal year adjusted in accordance with paragraphs (b)(4)(iii), (b)(4)(iv) and (b)(4)(v) of this section.

(b) *Incentive payments to States.* Effective October 1, 1985, the Office shall compute incentive payments for States for a fiscal year in recognition of AFDC collections and of non-AFDC collections.

(1) A portion of a State's incentive payment shall be computed as a percentage of the State's AFDC collections, and a portion of the incentive payment shall be computed as a percentage of its non-AFDC collections. The percentages are determined separately for AFDC and non-AFDC portions of the incentive. The percentages are based on the ratio of the State's AFDC collections to the State's total administrative costs and the State's non-AFDC collections to the State's total administrative costs in accordance with the following schedule:

RATIO OF COLLECTIONS TO TOTAL IV–D ADMINISTRATIVE COSTS

	Percent of collection paid as an incentive
Less than 1.4	6.0
At least 1.4	6.5
At least 1.6	7.0
At least 1.8	7.5
At least 2.0	8.0
At least 2.2	8.5
At least 2.4	9.0
At least 2.6	9.5
At least 2.8	10.0

(2) The ratios of the State's AFDC and non-AFDC collections to total IV–D administrative costs will be truncated at one decimal place.

(3) The portion of the incentive payment paid to a State for a fiscal year in recognition of its non-AFDC collections is limited to the percentage of the portion of the incentive payment paid for that fiscal year in recognition of its AFDC collections, as follows:

(i) 100 percent in fiscal years 1986 and 1987;

(ii) 105 percent in fiscal year 1988;

(iii) 110 percent in fiscal year 1989; and

(iv) 115 percent in fiscal year 1990 and thereafter.

(4) In calculating the amount of incentive payments, the following conditions apply:

(i) Only those AFDC and non-AFDC collections distributed and expenditures claimed by the State in the fiscal year shall be used to determine the incentive payment payable for that fiscal year;

(ii) Support collected by one State on behalf of individuals receiving IV–D services in another State shall be treated as having been collected in full by each State;

(iii) Fees paid by individuals, recovered costs, and program income such as interest earned on collections shall be deducted from total IV–D administrative costs;

(iv) At the option of the State, laboratory costs incurred in determining paternity may be excluded from total IV–D administrative costs; and

(v) Effective January 1, 1990, amounts expended by the State in carrying out a special project under section 455(e) of the Act shall not be included in the State's total IV–D administrative costs.

(vi) Costs of demonstration projects for evaluating model procedures for reviewing child support awards under section 103(e) of Pub. L. 100–485 shall not be included in the State's total IV–D administrative costs.

(c) *Payment of incentives.* (1) The Office will estimate the total incentive payment that each State will receive for the upcoming fiscal year.

(2) Each State will include one-quarter of the estimated total payment in its quarterly collection report which will reduce the amount that would otherwise be paid to the Federal government to reimburse its share of assistance payments under §§ 302.51 and 302.52 of this chapter.

(3) Following the end of a fiscal year, the Office will calculate the actual incentive payment the State should have received based on the reports submitted for that fiscal year. If adjustments to the estimate made under paragraph (c)(1) of this section are necessary, the State's IV–A grant award will be reduced or increased because of over- or under-estimates for prior quarters and for other adjustments.

(4) For FY 1985, the Office will calculate a State's incentive payment based on AFDC collections retained by the State and paid to the family under § 302.51(b)(1) of this chapter.

(5) For FY 1986 and 1987, a State will receive the higher of the amount due it under the incentive system and Federal matching rate in effect as of FY 1986 or 80 percent of what it would have received under the incentive system and Federal matching rate in effect during FY 1985.

§ 304.20 [Amended]

b. Section 304.20(b)(2) is amended by substituting the word "genetic" for the word "blood" wherever it appears and changing the reference to "§ 303.5(b)" to "§ 303.5(c)".

§ 304.23 [Amended]

c. Section 304.23(g) is amended by removing the words ", Subpart A," after the words "Part 306".

§ 304.26 [Amended]

d. Section 304.26(b) is amended by changing the reference to "§ 303.52" to "§ 304.12".

PART 306—[AMENDED]

§§ 306.1 and 301.1 [Amended]

§§ 306.50 and 306.51 [Redesignated as §§ 303.30 and 303.31]

Part 306 is amended by transferring the definitions of "Medicaid agency" and "Medicaid" from §306.1 to § 301.1, transferring the contents of Subpart B—Required IV–D Activities, which consists of §§ 306.50 and 306.51, to Part 303 and redesignating them as new §§ 303.30 and 303.31, respectively, and the part is revised to read as follows:

PART 306—OPTIONAL COOPERATIVE AGREEMENTS FOR MEDICAL SUPPORT ENFORCEMENT

Sec.

Authority: 42 U.S.C. 652, 1302, 1396a(a)(25), 1396b(d)(2), 1396b(o), 1396b(p), and 1396(k).

§ 306.0 Scope of this part.

This part defines the requirements for an optional cooperative aqreement between the IV–D agency and the Medicaid agency for the purpose of enforcing medical support obligations under section 1912 of the Act.

§ 306.2 Cooperative agreement.

The cooperative agreement between the IV–D agency and the Medicaid agency shall be a written agreement for the IV–D agency to assist the Medicaid agency by securing and enforcing the medical support obligation of an absent parent to a child for whom an assignment of medical support rights has been executed under 42 CFR 433.146. The functions that the IV–D agency may perform under the cooperative agreement are set forth in § 306.10. The administrative requirements are set forth at § 306.11.

§ 306.10 Functions to be performed under a cooperative agreement.

The functions that the IV–D agency may perform under a cooperative agreement with the Medicaid agency are limited to one or any combination of the following activities. The agency may:

(a) Receive referrals from the Medicaid agency.

(b) Locate the absent parent, using the State Parent Locator Service and the Federal Parent Locator Service, as needed.

(c) Establish paternity if necessary.

(d) Determine whether the parent has a health insurance policy or plan that covers the child.

(e) Obtain sufficient information about the health insurance policy or plan to permit the filing of a claim with the insurer.

(f) File a claim with the insurer; or transmit the necessary information to the Medicaid agency, or to the appropriate State agency or fiscal agent for the filing of the claim; or require the absent parent to file a claim.

(g) Secure health insurance coverage through court or administrative order.

(h) Take direct action against the absent parent to recover amounts necessary to reimburse medical assistance payments when the absent parent does not have health insurance and the amounts collected will not reduce the absent parent's ability to pay child support.

(i) Receive medical support collections.

(j) Distribute the collections as required by 42 CFR 433.154 including calculation and payment of the incentives provided for by 42 CFR 433.153.

(k) Perform other functions as may be specified by instructions issued by the Office of Child Support Enforcement.

§ 306.11 Administrative requirements of cooperative agreements.

(a) *Organizational structure.* The cooperative agreement must:

(1) Describe the organizational structure of the unit or units within the IV–D agency that are responsible for medical support enforcement activities.

(2) List the medical support enforcement functions that are to be performed outside of the IV–D agency with the name of the organization responsible for performance.

(3) Provide that the IV–D agency shall have responsibility for securing compliance with the requirements of the cooperative agreement by individuals or agencies outside the IV–D agency performing medical support enforcement functions.

(b) *Maintenance of records.* The cooperative agreement must specify that the IV–D agency will establish and maintain case records of medical support enforcement activities in accordance with the provisions of § 302.15 of this chapter.

(c) *Safeguarding information.* The cooperative agreement must provide that the use or disclosure of information concerning applicants for, or recipients of, medical support enforcement services is subject to the limitations in § 303.21 of this chapter.

(d) *Fiscal policies and accountability.* (1) The cooperative agreement must provide that the IV–D agency will maintain an accounting system and supporting fiscal records adequate to assure that claims for reimbursement from the Medicaid agency are in accordance with applicable Federal requirements in 45 CFR Part 74.

(2) The cooperative agreements must provide for the establishment of a method for properly allocating those costs that cannot be directly charged to the medical support enforcement effort.

§ 306.20 Prior approval of cooperative agreements.

(a) Prior to implementation, the IV–D agency must submit two copies of any cooperative agreement entered into under this part to the Regional Representative for approval.

(b) The Regional Representative will review the cooperative agreement for conformity with the requirements of this part and 42 CFR 433.152.

(c) The Regional Representative will promptly notify the State of approval or disapproval. The State may consider the agreement approved if notification is not received within 60 days after the agreement is received by the Regional Representative.

§ 306.21 Subsidiary cooperative agreements with courts and law enforcement officials.

The IV–D agency will enter into subsidiary written cooperative agreements with appropriate courts and law enforcement officials to the extent necessary to perform those functions specified in the cooperative agreement between the IV–D agency and the Medicaid agency. These agreements must be made in accordance with the requirements of § 302.34 (Cooperative agreements).

§ 306.22 Purchase of service agreements.

The IV–D agency will enter into written purchase of service agreements to the extent necessary to fulfill the requirements of its cooperative agreement with the Medicaid agency.

§ 306.30 Source of funds.

The cooperative agreement must specify that the IV–D agency will receive full reimbursement from the Medicaid agency for all medical support enforcement activities performed under the agreement. (See § 306.11(d) for requirements on fiscal policies and accountability.)

PART 307—[AMENDED]

1. The authority citation for Part 307 continues to read as follows:

Authority: 42 U.S.C. 652 through 658, 664, 666, 667 and 1302.

§ 307.10 [Amended]

2. Section 307.10 is amended by changing the reference in paragraph (a)(2)(xiii) to "45 CFR Part 306" to" §§ 303.30 and 303.31".

[FR Doc. 89–9354 Filed 4–18–89; 8:45 am]
BILLING CODE 4150–04–M

Federal Register

Wednesday
April 19, 1989

Part III

Department of Health and Human Services

Family Support Administration

Department of Labor

Employment and Training Administration

45 CFR Part 251

Aid to Families With Dependent Children; Job Opportunities and Basic Skills Training Program; Program Participant Employment Protection; Proposed Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Family Support Administration

DEPARTMENT OF LABOR

Employment and Training Administration

45 CFR Part 251

RIN 0970-AA67

Aid to Families With Dependent Children; Job Opportunities and Basic Skills Training Program; Program Participant Employment Protection

AGENCY: Family Support Administration, HHS, and Employment and Training Administration, DOL.

ACTION: Proposed rule.

SUMMARY: These proposed regulations set forth provisions that must be met in assigning a participant to any program activity in the Job Opportunities and Basic Skills Training (JOBS) program. They also establish procedures for resolving displacement complaints by regular workers and disputes regarding on-the-job working conditions, workers' compensation, and wage rates under the community work experience program (CWEP) which apply to JOBS program participants. They further provide that these procedures apply to any other work-related programs and activities authorized in connection with the AFDC program under section 1115 of the Social Security Act. These conditions will establish appropriate participation conditions and grievance and appeals procedures.

DATE: Interested persons and agencies are invited to submit written comments concerning these regulations no later than June 19, 1989.

ADDRESS: Comments should be submitted in writing to the Assistant Secretary for Family Support, Attention: Ms. Carol Callahan, Acting Director, Division of Special Initiatives, 370 L'Enfant Promenade SW., 5th Floor, Washington, DC 20447, or delivered to the Family Support Administration, Office of Family Assistance, 370 L'Enfant Promenade SW., 5th Floor, Washington, DC 20447, between 8:00 a.m. and 4:30 p.m., on regular business days. Comments received may be inspected during the same hours by making arrangements with the HHS contact person shown below.

FOR FURTHER INFORMATION CONTACT: For HHS: Ms. Carol Callahan, Family Support Administration, Office of Family Assistance, 5th Floor, 370 L'Enfant Promenade SW., Washington, DC 20047, telephone: (202) 252-4979; for DOL: Mr. Robert N. Colombo, Employment and Training Administration, Room N-4703, 200 Constitution Avenue NW., Washington, DC 20210, telephone: (202) 535-0577.

SUPPLEMENTARY INFORMATION:

Background

On October 13, 1988, the President signed the Family Support Act of 1988 (hereafter referred to as the Statute), Pub. L. 100-485. Title II of the Statute creates a new education, training and employment program known as the Job Opportunities and Basic Skills Training (JOBS) program under title IV-F of the Social Security Act. The purpose of the JOBS program is to assure that needy families with children obtain education, training, and employment that will help them avoid long term welfare dependence.

Associated with participation in the JOBS program, the Statute requires the establishment of provisions related to on-the-job working conditions, tort claims protections, workers' compensation, displacement and grievance procedures to protect currently employed workers and program participants. As directed by the Statute, the Department of Health and Human Service (HHS) coordinated with the Department of Labor (DOL) to propose joint regulations on these provisions.

Discussion of the Regulations

The Statute requires each State to have a JOBS program under a plan approved by the Secretary of Health and Human Services (Secretary) no later than October 1, 1990. The Statute also permits States to implement a JOBS program as early as July 1, 1989, even if implementing regulations have not been published. It further requires each State to make the program available in each subdivision of the State where it is feasible to do so by October 1, 1992. At least every two years, the State must review and update its JOBS plan and submit the updated JOBS plan to the Secretary for approval.

These regulations discuss provisions in section 484 of title IV-F of the Social Security Act (as added by section 201(b) of the Statute). Such provisions apply both to the JOBS program and work-related activities authorized in connection with the AFDC program under section 1115 of the Social Security Act. (Hereafter references to the JOBS program will also apply to such section 1115 activities.) These provisions require the Secretaries of Health and Human Services and Labor to issue joint regulations with respect to on-the-job working conditions, tort claims protections, workers' compensation, and displacement as related to the JOBS program. Disputes relating to on-the-job working conditions, workers' compensation, and wage rates for CWEP hours for participants in the JOBS program are to be heard under the State agency's fair hearing process. States are also to establish grievance procedures for resolving displacement complaints. Appeals of State decisions may be made to the Administrative Law Judges, U.S. Department of Labor, under the conditions set forth in these regulations.

Section 251.1 of the regulations proposes that participants be assigned to employment and training activities within the JOBS program which they are capable of performing on a regular basis, that they not be required to travel an unreasonable distance from their homes to the work and training site, that they be provided necessary support services, including child care, and that the training be appropriate. Several factors are considered in determining the participant's capability to perform tasks on a regular basis. The definition of unreasonable distance incorporates a standard of two hours per day commuting time, unless community standards are higher; this policy is consistent with that used under the Work Incentive (WIN) program. This section further provides that JOBS participants in work and training assignments will be protected by the same State and Federal health and safety standards as other individuals in similar assignments who are not participating in the JOBS program. Also, no person participating in the JOBS program will be subjected to discrimination based on race, sex, national origin, religion, age or handicapping condition.

Section 251.2 proposes to require that each JOBS participant in a work or training activity covered by a State workers' compensation statute or system will be assured of workers' compensation, including medical, accident, and income maintenance insurance, to the same extent as that available to others who are employed in similar activities. In work assignments, such as CWEP, where workers' compensation may not be applicable, on-site medical and accident insurance similar to that required by the workers' compensation system must be provided. However, income maintenance insurance is not required since the family's AFDC eligibility would not be adversely affected by an accident.

Section 251.3 contains the provisions designed to protect currently employed workers from displacement. Under the proposed regulations, these provisions apply to participants in CWEP (and other work experience programs), on-the-job training (OJT), and work supplementation programs because these are the components which involve work activities where displacement could occur. It assures that no currently employed workers will be displaced or have the hours of their normal work shift, wages or employment benefits reduced as the result of activities by participants in the JOBS program. Also, JOBS participants in work assignments will not impair existing contracts for services or collective bargaining agreements and will not fill established unfilled positions or positions when workers are in layoff from the same or similar positions in the organization. In addition, currently employed workers will not be terminated in order to fill the vacancies with JOBS participants. JOBS participants will not infringe upon the promotional opportunities of currently employed workers. Regarding the filling of any established unfilled positions, a special displacement provision applies to work assignments in work supplementation and CWEP. This is incorporated in the last paragraph of this section; it does not apply to OJT or other work experience assignments.

Section 251.4 proposes to require the State to establish grievance procedures for resolving displacement complaints by regular employees. Section 251.5 proposes to require the State to establish a complaint procedure under the State agency's fair hearing process to resolve disputes regarding on-the-job working conditions, workers' compensation and wage rates for CWEP hours for participants in the JOBS program. This hearing process may be established especially for the purpose of resolving disputes relating to the JOBS program or it may specify that the provisions of 45 CFR 205.10, which relate to hearing and notice procedures under the AFDC program, apply to JOBS participants. Decisions by the State concerning displacement complaints under § 251.4 and on-the-job working conditions, workers' compensation and CWEP wage rate issues under § 251.5 may be appealed to the Office of Administrative Law Judges, U.S. Department of Labor. The Administrative Law Judges' review shall be on the record of the State proceedings and shall be limited to questions of law, and the State's findings of fact shall be conclusive if supported by substantial evidence.

Section 251.5 does not specifically define the working conditions that may be considered under the State agency's fair hearing process and which may be appealed to the Department of Labor; however, the term "on-the-job working conditions" has been used. It refers to the conditions at the place of work. It does not refer to matters which are addressed in the assessment period prior to placement. Thus, it does not cover issues related to the process or outcome of orientations, assessments, employability planning, case management, job search, job development or placement activities. Nor does it cover disputes about issues such as those related to family responsibilities, place of residence, child care and other support services needs, availability of resources and participant circumstances. These issues are covered under the State agency's fair hearing process for JOBS (which are being covered under separate regulations) and are not appealable to the Department of Labor.

It should also be noted that § 251.5 of these regulations would require that a State establish and maintain a complaint procedure under the State agency's fair hearing process to cover the wage rates used in calculating the hours of participation required of individuals in CWEP, as well as on-the-job working conditions and workers' compensation issues. However, these regulations do not include a description of how the Federal or State minimum wage, or the prevailing wage, is used to compute the number of hours of participation in CWEP. Instead, there is a reference to section 482(f) of the Social Security Act, as amended, which addresses CWEP. Since this process is central to the operation of CWEP, it was felt that the description of the computation CWEP hours more appropriately belonged in the JOBS regulations which will be published in a separate regulatory package.

When an appeal is filed with the Office of the Administrative Law Judges we are requesting that copies of the appeal and the administrative record be sent to those State and Federal agencies responsible for the issuance of the JOBS program rules. We have also provided an opportunity for the Employment and Training Administration, DOL; the Family Support Administration, HSS; and the State agency to file a report with the Office of Administrative Law Judges. The decision of the Administrative Law Judges is the final decision of the Secretary of Labor on the appeal.

Other provisions of JOBS contained in title II of the Statute and the provisions in title III of the Statute regarding child care and other supportive services are being covered in another regulatory package. Likewise, related AFDC amendments under the Statute are being covered in a separate regulatory package.

Regulatory Procedures

Executive Order 12291

Executive Order 12291 requires that a regulatory impact analysis be performed for any "major rule". A major rule is one that:

—Has an annual effect on the national economy of $100 million or more;

—Results in a major increase in costs or prices for consumers, any industries, any government agencies, or any geographic region;

—Has significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The increased expenditures authorized by the Statute will have an annual effect on the national economy of over $100 million in the first five years of operations. The calculations for expenditures under the Statute are based on the anticipation of increased expenditures in work/training programs and connected supportive services which will be partially offset by reduced welfare costs in the long run, but it is still expected the net impact will exceed $100 million per year in the first five years after implementation. It is envisioned that required funding levels will decrease over time as a result of the impact of the JOBS program on long-term dependency and the number of families on AFDC.

We have determined that any economic impact in excess of $100 million per year is the result of section 201 of the Statute and not these regulations, which merely implement the statutory provisions of section 484 of title IV–F of the Social Security Act (as added by section 201(b) of the Statute). The implementing regulations will not cause a significant change in current expenditure projections. For this reason, an extensive analysis of the economic impact of this rule is not required.

Paperwork Reduction Act

The provisions of these proposed regulations do not contain information collection requirements as defined by the Paperwork Reduction Act of 1980.

Regulatory Flexibility Act

The Regulatory Flexibility Act (Pub. L. 96–354) requires the Federal government to anticipate and reduce the impact of rules and paperwork requirements on small businesses. For each particular rule, we must publish an initial analysis describing the rule's impact on small businesses. This analysis should indicate the purpose and reasons for the rule, the number of small businesses to which it would apply, anticipated reporting and recordkeeping requirements, possible overlap and conflict with other Federal rules, and a description of possible alternative means of accomplishing the stated objectives which would minimize the impact on small businesses.

The Secretary certifies under 5 U.S.C. 605(b), enacted by Pub. L. 96–354, the Regulatory Flexibility Act, that these regulations, if promulgated, will not result in a significant impact on a substantial number of small entities because the regulations primarily affect State governments and individuals. Therefore, a regulatory flexibility analysis as provided in Pub. L. 96–354, the Regulatory Flexibility Act, is not required. These regulations are issued under the authority of section 1102 of the Social Security Act.

Federalism and Family Effects

The following regulations implement the requirements of the Statute regarding on-the-job working conditions, tort claims protections, workers' compensation, and displacement as related to the JOBS program. These regulations will not have a significant effect on federalism or the family based on the criteria cited in E.O. 12606 and E.O. 12612.

(Catalog of Federal Domestic Assistance Programs: No. 13.780, Assistance Payments—Maintenance Assistance)

Note: We have requested that the JOBS program be added to the Catalog of Federal Domestic Assistance Programs, and we received a tentative assignment of No. 13.781.

List of Subjects 45 CFR Part 251

Aid to Families with Dependent Children, Grant programs—social programs, Employment, Education, Training, Administrative practice and procedure.

Dated: April 10, 1989.

Roberts T. Jones,

Assistant Secretary of Labor, Employment and Training Administration.

Approved: April 14, 1989.

Elizabeth Dole,

Secretary, Department of Labor.

Dated: April 6, 1989.

Catherine Bertini,

Acting Assistant Secretary for Family Support.

Approved: April 6, 1989.

Louis W. Sullivan,

Secretary, Department of Health and Human Services.

Title 45, Chapter II, Code of Federal Regulations is amended by adding a new Part 251 to read as follows:

PART 251—THE JOB OPPORTUNITIES AND BASIC SKILLS TRAINING (JOBS) PROGRAM, PROGRAM PARTICIPANT EMPLOYMENT PROTECTION

Sec.

Authority: Section 484 of the Social Security Act as amended (42 U.S.C. 684); section 1102 of the Social Security Act, as amended (42 U.S.C. 1302).

§ 251.0 Purpose.

(a) The purpose of Part 251 is to set forth the conditions generally applicable to the provision of services when assigning participants to program activities under the Jobs Opportunity and Basic Skills Training (JOBS) program. This part contains the following:

(1) The work and training conditions that the State agency shall assure when assigning participants to any program activity;

(2) Appropriate workers' compensation and tort claims protections that must be provided to participants;

(3) Provisions to assure that work assignments shall not result in displacements;

(4) A grievance procedure for resolving displacement complaints by regular employees;

(5) A complaint procedure under the State's fair hearing process with respect to on-the-job working conditions and workers' compensation, and wage rates in the case of individual participating in community work experience programs (CWEP); and

(6) Procedures for appealing State decisions on displacement complaints and certain other complaints to the Department of Labor.

(b) The provisions of this section apply to any work-related programs and activities under JOBS and under any other work-related programs and activities authorized in connection with the Aid to Families with Dependent Children (AFDC) program under section 1115 of the Social Security Act.

§ 251.1 Work and training conditions.

(a) *Job assignments.* The State agency shall assure that:

(1) The employment or training be related to the capability of the participant to perform the task on a regular basis, including physical capacity, skills, experience, family responsibilities and place of residence.

(2) The total daily commuting time to and from home to the work or training site to which the participant is assigned shall not normally exceed 2 hours, not including the transporting of a child to and from child care, unless a longer commuting distance and time is generally accepted in the community, in which case the round trip commuting time shall not exceed the generally accepted community standards without the participant's consent.

(3) No participant shall be required, without his or her consent, to remain away from his or her home overnight.

(4) The conditions of participation are reasonable, taking into account in each case the proficiency of the participant and the child care and other supportive service needs of the participant.

(5) For training to be appropriate, the nature of the training shall meet local employers' requirements so that the participant will be in a competitive position within the local labor market. The training must also be likely to lead to employment which will meet the appropriate working conditions.

(b) *Health and safety standards.* Participants are subject to the same health and safety standards established under State and Federal law, that otherwise apply to other individuals in similar assignments.

(c) *Non-discrimination.* No persons shall be discriminated against on the basis of race, sex, national origin, religion, age or handicapping condition, and all participants will have such rights as are available under any applicable Federal, State or local law prohibiting discrimination.

§ 251.2 Workers' compensation and tort claims protections.

(a) Each participant covered by a workers' compensation statute or system shall be assured of workers' compensation including medical, accident and income maintenance insurance at the same level and to the same extent as that available to others who are similarly employed.

(b) Each participant not covered by an applicable workers' compensation statute shall be provided with on-site medical and accident insurance similar to that required under such applicable workers' compensation statute. Income maintenance coverage is not required for these participants.

§ 251.3 Displacement.

The State agency shall assure that CWEP, other work experience, on-the-job training (OJT), and Work Supplementation assignments:

(a) Shall not result in the displacement of currently employed workers, including partial displacement, such as a reduction in hours of non-overtime work, wages, or employment benefits;

(b) Shall not impair existing contracts for services or collective bargaining agreements;

(c) Shall not result in the employment or assignment of a participant or the filling of a position when any other person not supported under this program is on layoff from the same or a substantially equivalent job within the same organizational unit, or when an employer has terminated any regular employee or otherwise reduced its workforce with the intention of filling the vacancy so created by hiring a participant whose wages are subsidized under this program;

(d) Shall not infringe in any way upon promotional opportunities of persons currently in jobs not funded under this program; and

(e) Shall not result in the filling of any established unfilled position vacancy by a participant assigned under section 482(e) (work supplementation program) and section 482(f) (CWEP) of the Social Security Act, as amended.

§ 251.4 Grievances by regular employees.

(a) The State shall establish and maintain a grievance procedure for resolving complaints by regular employees or their representatives that the work assignment of an individual violates any of the prohibitions described in § 251.3.

(b) A decision of the State under paragraph (a) of this section may be appealed to the Office of Administrative Law Judges, U.S. Department of Labor, Vanguard Building, Room 600, 1111 20th Street NW., Washington, DC 20036. The review shall be on the record of the State proceedings and shall be limited to questions of law, and the State's findings of fact shall be conclusive if supported by substantial evidence.

(c) The appellant under paragraph (b) of this section shall send copies of the appeal to the Assistant Secretary for Employment and Training, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210 and to the Assistant Secretary for Family Support, Department of Health and Human Services, 370 L'Enfant Promenade SW., 6th Floor, Washington, DC 20447.

(d) The appeal shall contain:

(1) The full name, address and telephone number of the appellant;

(2) The provisions of the Statute or regulations believed to have been violated;

(3) A copy of the original complaint filed by the appellant with the State; and

(4) A copy of the State's findings and decision regarding the appellant's complaint.

(e) Upon receipt of an appeal pursuant to paragraph (b) of this section, the Office of Administrative Law Judges shall request from the State agency, and the State shall, within 30 days of such request, certify and file with the Office of Administrative Law Judges the entire administrative record of the matter under appeal. The State shall send copies of this record to the Assistant Secretary for Employment and Training and the Assistant Secretary for Family Support at the addresses set forth in paragraph (c) of this section.

(f) Upon receipt of the copy of the appeal and the copy of the record pursuant to paragraphs (c) and (e) of this section, the Assistant Secretary for Employment and Training shall review the record and, through the Office of the Solicitor of Labor, file, if deemed appropriate, an *amicus curiae* brief or a report with the Office of Administrative Law Judges for that office's consideration pursuant to paragraph (b) of this section. The State agency and the Assistant Secretary for Family Support may also file a report with the Office of Administrative Law Judges.

(g) The decision of the Office of Administrative Law Judges under paragraph (b) of this section shall be the final decision of the Secretary of Labor on the appeal.

§ 251.5 Complaints with respect to on-the-job working conditions, workers' compensation and CWEP wages rates.

(a) The State shall establish and maintain a complaint procedure under the State's fair hearing process:

(1) With respect to on-the-job working conditions for individuals participating in the JOBS program;

(2) With respect to workers' compensation coverage for individuals participating in the JOBS program; and

(3) With respect to wage rates used in calculating the hours of participation required of individuals in community work experience programs described in section 482(f) of the Social Security Act, as amended.

(b) A decision of the State under paragraph (a) of this section may be appealed to the Office of Administrative Law Judges, U.S. Department of Labor, Vanguard Building, Room 600, 1111 20th Street NW., Washington, DC 20036. The review shall be on the record of the State proceedings and shall be limited to questions of law, and the State's findings of fact shall be conclusive if supported by substantial evidence.

(c) The appellant under paragraph (b) of this section shall send copies of the appeal to the Assistant Secretary for Employment and Training, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210, and to the Assistant Secretary for Family Support, Department of Health and Human Services, 370 L'Enfant Promenade SW., 6th Floor, Washington, DC 20447.

(d) The appeal shall contain:

(1) The full name, address and telephone number of the appellant;

(2) The provisions of the Statute or regulations believed to have been violated;

(3) A copy of the original complaint filed by the appellant with the State; and

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(e) Upon receipt of an appeal pursuant to paragraph (b) of this section, the Office of Administrative Law Judges shall request from the State agency, and the State shall, within 30 days of such request, certify and file with the Office of Administrative Law Judges the entire administrative record of the matter under appeal. The State shall send copies of the record to the Assistant Secretary for Employment and Training and the Assistant Secretary for Family Support at the addresses set forth in paragraph (c) of this section.

(f) Upon receipt of the copy of the appeal and the copy of the record pursuant to paragraphs (c) and (e) of

this section, the Assistant Secretary for Employment and Training shall review the record and, through the Office of the Solicitor of Labor, file, if deemed appropriate, an *amicus curiae* brief or a report with the Office of Administrative Law Judges for that office's consideration pursuant to paragraph (b) of this section. The State Agency and the Assistant Secretary for Family Support shall also have the opportunity to file a report with the Office of Administrative Law Judges.

(g) The decision of the Office of Administrative Law Judges under paragraph (c) of this section shall be the final decision of the Secretary of Labor on the appeal.

[FR Doc. 89-9384 Filed 4-18-89; 8:45 am]

BILLING CODE 4150-04-M

federal register

Wednesday
April 19, 1989

Part IV

Department of Health and Human Services

Public Health Service

Availability of Grants for Minority HIV Education/Prevention Demonstration Projects; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

Availability of Grants for Minority HIV Education/Prevention Demonstration Projects

AGENCY: Office of Minority Health/ Office of Assistant Secretary for Health, PHS, DHHS.

ACTION: Notice of availability of funds and request for applications under the Office of Minority Health's Program of Grants for Minority HIV Education/ Prevention Projects.

SUMMARY: The Office of Minority Health announces the availability of grants to provide suppport to minority community-based organizations and national organizations, and minority institutions. These grants will be awarded for projects that demonstrate effective minority-targeted education and prevention strategies which encourage behaviors to reduce or eliminate risk for acquiring or transmitting human immunodeficiency virus (HIV), the virus that causes acquired immunodeficiency syndrome (AIDS).

Background

Infection with HIV results in a spectrum of disease. At one end of the spectrum are people infected with HIV who look and feel perfectly healthy. At the opposite end are people with AIDS. Between these two extremes, HIV-infected people may develop illnesses that range from mild to extremely serious. The interval between initial HIV infection and the presence of symptoms and signs that characterize AIDS is long and variable and may range from several months to seven years or longer. A person who is infected with HIV, even while feeling healthy, may unknowingly infect others. Thus, the term "HIV infection" more appropriately describes the entire scope of this public health problem than the term "AIDS."

Current statistics indicate that Blacks and Hispanics are disproportionately represented among the over 84,000 people with AIDS that have been reported in the United States. While Blacks and Hispanics respectively represent approximately 12% and 7% of the U.S. population, 27% of people with AIDS are Black and 15% are Hispanic. Asian-Pacific Islanders and Native Americans respectively represent 1.6% and 0.7% of the U.S. population and together currently account for less than 1% of people with AIDS. Although Asian/Pacific Islanders and Native Americans do not appear to be disproportionately affected by HIV infection, cultural and linguistic characteristics of these populations must also be considered in the development of effective HIV prevention programs.

There is a significant degree of geographic variation in the racial/ethnic distribution of people with AIDS. For example, approximately 55% of Blacks and Hispanics with AIDS reported residence in New York, New Jersey and Florida compared to 28% of whites with AIDS. Recognizing this variation is essential to understanding how the HIV epidemic has impacted upon various minority communities.

There are striking differences in patterns of transmission of HIV among Blacks and Hispanics compared to whites. Overwhelmingly, whites with AIDS are more likely to have contracted the disease through male homosexual contact, or transfusion of blood or blood products (including hemophiliacs) than Blacks and Hispanics. Homosexual contact between men is also an important mode of HIV transmission among Blacks and Hispanics. However, intravenous drug use (by sharing needles and other drug paraphernalia—including the syringe, the cooker used to liquify the drug, and the cotton used for filtering), heterosexual contact, and perinatal transmission (HIV spreading from infected mother to infant during pregnancy, delivery and possibly through breast milk during nursing) are more prevalent modes of transmission among Blacks and Hispancis than among whites. Furthermore, over 70% of heterosexuals, over 70% of women and 75% of children with AIDS are Black and Hispanic. It must be emphasized that people at risk for HIV infection become so because of behavior, which may be influenced by socioeconomic factors, not because of any inherent feature of race or ethnicity.

The behaviors that increase the risk of infection with HIV include: Unprotected sexual intercourse (homosexual or heterosexual); sharing needles or other drug paraphernalia among people using drugs intravenously; having numerous sexual partners (homosexual or heterosexual). Having sex with someone who uses drug intravenously and shares needles or other "works," or has had numerous homosexual or heterosexual partners is also "high risk" behavior.

At the present time there is no cure for HIV infection. Furthermore, there is no available treatment or vaccine to prevent HIV infection. Prevention through individual behavior change is the only method currently available to stop the spread of HIV infection.

Strategies to eliminate or reduce high risk behaviors associated with HIV infection must provide education about how HIV is transmitted from one person to another, the consequences of infection, how to avoid becoming infected as well as specific skills for adopting and maintaining appropriate behaviors. These strategies require discussion of potentially emotionally charged issues about very personal behaviors, such as discussion of specific sexual behaviors, homosexuality, bisexuality and drug use. To be effective in minority populations, these strategies must specifically address culture, language, educational levels and other socio-economic factors.

Addressing heterogeneity within minority populations, including differences in HIV risk factor profiles, will require creativity and innovation in the development of approaches to HIV education/prevention. Furthermore, these approaches must be presented by organizations and institutions that are credible to the targeted population. Community-based and national service organizations that represent racial/ ethnic minorities, and other minority institutions, are uniquely qualified to influence individuals and foster community norms that will encourage and support appropriate behaviors. Supporting these organizations to initiate or expand HIV education/ prevention activities provides an opportunity to intensify the quality and scope of HIV disease prevention for minority populations.

This announcement is the second annual notice for this grant program. Last year, the Office of Minority Health received 164 applications of which 64 were approved and 27 grants awarded for a total of $1.4 million. 100 applications were disapproved because of various deficiencies. Several applications may have been in the approval range with some technical assistance.

Others would have required much more work in the pre-application stage. Given the time and resources involved in developing and writing an application, potential applicants may wish to seriously consider whether or not they should apply at this time or wait until they develop greater expertise in planning and writing their proposals.

Applicants wishing to improve their chances for approval should pay particular attention to both the Supplemental and General Instructions provided with the grant application. *Applications will be evaluated only in*

terms of the information presented in the application. It is therefore incumbent upon applicants to specifically document how their organizations meet eligibility criteria and are responsive to Grant Program objectives.

Authority

This program is authorized under section 301 of the Public Health Service Act, as amended.

Program Goal

The goal of this grant program is to demonstrate the effectiveness of education and prevention strategies designed for racial/ethnic minority populations which will encourage behaviors to eliminate or reduce risk for acquiring or transmitting HIV.

Program Purpose

The purpose of this grant program is to (1) expand the range of minority community-based and national organizations, and minority institutions involved in HIV education/prevention activities relevant to the program goal and (2) encourage innovative approaches that appropriately address the diversity within and among minority populations.

Program Objectives

The objectives of this grant program are to fund projects which:

(1) Characterize a specific minority target population and its need for the proposed program;

(2) Demonstrate specific and detailed methods for providing HIV infection education and prevention in a medium, format and language that is appropriate for the target population;

(3) Demonstrate coordination and collaboration with existing HIV infection education and prevention resources (e.g. the local or state health department, other community-based organizations receiving public or private funds to provide HIV education/prevention services);

(4) Document the experience of the organization in minority community service on a local or national level;

(5) Monitor and evaluate how the project's specific objectives have been met through the proposed activities.

Definitions

For the purposes of this grant program the following definitions are provided:

Minority Community-based Organization

A private nonprofit or for-profit organization which has a governing board composed of 50% or more racial/ethnic minority members and has an established record of service to racial and ethnic minority communities.

A local affiliate of a national minority organization which has a national governing board composed of 50% or more racial/ethnic minority members and has an established record of service to racial and ethnic minority communities (see definition below).

Minority National Organization

A private nonprofit or for-profit organization which has a governing board composed of 50% or more racial/ethnic minority members and has an established record of service to racial and ethnic minority communities. Activities of such organizations must be national in scope. For the purposes of this grant program a national organization must have members or affiliate organizations in five or more states.

Minority Institution

A religious or educational institution. The activities of such institutions must focus predominantly on addressing the religious or educational needs of racial/ethnic minority populations. This category includes minority churches, and historically Black colleges and universities (HBCU's).

Community

A defined geographical area in which persons live and work which is characterized by: (a) Formal and informal channels of communications; (b) formal and informal leadership structures for the purpose of maintaining order and improving conditions; (c) the capacity to serve as a focal point for addressing societal needs including health needs.

Target Population

The population for whom the proposed project is directed. Proposals will be considered which address HIV education/prevention activities for racial/ethnic minority populations within United States and its territories. For the purposes of this grant program racial/ethnic minorities are defined as American Indians/Alaskan Natives, Asians/Pacific Islanders, Blacks and Hispanics.

High Risk Behaviors

The behaviors that increase the risk of infection with HIV include: Unprotected sexual intercourse (homosexual or heterosexual); sharing needles or other drug paraphernalia among people using drugs intravenously; having numerous sexual partners (homosexual or heterosexual). Having sex with someone who uses drug intravenously and shares needles or other "works," or has had numerous homosexual or heterosexual partners is also "high risk" behavior.

Intervention

An activity or series of activities that is implemented to produce positive change.

Examples of Grant Program Activities

Please note that a broad range of approaches may be considered responsive to this proposal. The following examples are provided to describe *possible elements* of an acceptable program. A proposed program might include one, all or none of the examples described below:

(1) Provide instruction to community professionals and out-reach workers to provide HIV infection education and risk reduction;

(2) Develop mechanisms to encourage volunteers to develop and deliver community HIV infection education/prevention out-reach;

(3) Develop strategies to provide HIV infection education/prevention using hospital emergency rooms, other health care centers, churches, youth shelters, teen centers, adult education centers, detention centers or social service agencies or other community sites;

(4) Develop and implement activities to enable people at risk for contracting HIV infection to make a realistic assessment of their personal risk and their potential for transmitting the virus to others;

(5) Develop and implement activities to assist people at risk in planning, negotiating and reinforcing behavior change to prevent HIV infection;

(6) Develop and implement strategies for coordinating community-based HIV education/prevention activities targeting specific minority population(s) within a specific community;

(7) Develop and implement strategies for providing technical assistance to other minority community-based organizations.

Availability of Funds

Under this announcement the Office of Minority Health will make $1.4 million available in Fiscal Year 1989 to support approximately 25 projects. Grants of $20,000–50,000 each per year will be awarded to minority community-based organizations; grants of $25,000–75,000 each per year will be awarded to minority national organizations; and grants of $25,000–75,000 each per year will be awarded to minority institutions. The specific amount funded will depend on the merit and scope of the proposed

project and the overall availability of funds. Since a variety of approaches would represent valid responses to this announcement, a range of cost is expected among individual grants awarded.

These grants will be funded for a three year project period. Funding for the second and third year of the project period will be contingent on the applicant's satisfactory performance during the prior year and future availability of funds. Under this announcement it is anticipated that funds will be awarded before September 30, 1989.

Applicant Eligibility

Eligible applicants for this grant program must be minority community-based organizations or national organizations, or a minority institution as defined within this announcement (see Definitions). Individuals are not eligible to apply.

Federal demonstration grant support is not expected to result in more than one award in any Metropolitan Statistical Area (MSA) unless an additional project in an MSA is targeted to another of the four major minority groups—American Indians/Alaskan Natives, Asians/Pacific Islanders, Blacks and Hispanics. Efforts will be made to balance geographic, racial/ethnic and HIV infection risk considerations in the distribution of grant awards. Institutions and organizations that develop projects targeting minority homosexual/bisexual men, minority intravenous drug users (IVDU's), the sexual partners of IVDU's, minority adolescents who engage in high risk behaviors or minority women are specifically encouraged to apply.

Organizations that have received funds for HIV infection education/prevention projects under the Office of Minority Health's 1988 Program of Grants for Minority Community Health Coalition Demonstration Projects or 1988 Minority AIDS Education/Prevention Grant Program are not eligible to apply.

Application Procedures

Application Forms

The forms used to apply for grants under this program are Form PHS 398. Copies of the application kit may be obtained from The OMH Grant Office, 8201 Greensboro Drive, Suite 600, McLean, Virginia 22102, (phone 703–821–2487).

Deadlines

The deadline for receipt of applications is 5:30 p.m. (e.s.t.) on June 26, 1989. Applications will be considered as meeting the deadline if they are either:

(1) Received at the above address on or before the deadline date, or

(2) Sent to the above address on or before the deadline date and received in time for orderly processing.

(Applicants should request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or the U.S. Postal Service. Private metered postmarks will not be accepted as proof of timely mailing.)

Late Applications

Applications which do not meet the deadline criteria specified above will be considered late applications and will be returned to the applicant without being processed.

Terms of Condition and Support

Funds may be used to cover expenses clearly related and necessary to conduct the demonstration project. These expenses include the cost of personnel required to implement the program and the cost for consultants, support services and materials. Funds may not be used for HIV testing or screening, patient treatment or care. Funds may not be used for building construction costs or building alterations and renovations. Also, funds may not be used to purchase equipment except as may be acceptably justified in relation to conducting the project.

Review Methods and Review Criteria

Applications are subject to review as governed by Executive Order 12372, Intergovernmental Review of Federal Programs. Applications for funding will be subject to State review but comment must be received by 60 days after the due date by the program grants management office. Applicants should contact State Single Points of Contact (SPOC) early in the application preparation process.

All applications will be reviewed and evaluated only in terms of the evidence presented in the application regarding the ability of the applicant to meet the goal of the Grant Program and its objectives. A review group will be convened by the Office of Minority Health solely for this purpose.

The criteria presented below will be used to assist reviewers in evaluating proposed projects. (A quantitative indicator of each review criterion appears in parentheses):

Target Population/Needs Assessment (20 points)

1. The need for HIV education/prevention for the target population specified by the applicant;

Project Objectives/Intervention/Workplan (25 points)

2. The consistency of the project's goals and objectives with those of the Grant Program;

3. The appropriateness and feasibility of the intervention strategy, specific activities and methods of implementation proposed for the target population;

4. The coherence, detail, and explanation of the workplan; population specified by the applicant;

Organizational Capability (25 points)

5. The organization's capacity to be a credible source of HIV education and prevention for the target population;

6. The organization's capacity to meet the objectives of its proposed program and carry out all proposed activities;

7. The organization's ability and commitment to coordinate its HIV education/prevention efforts with other existing resources available for the target population;

Project Management and Staffing (10 points)

8. Qualifications and appropriateness of proposed program staff, both paid and voluntary, and adequacy of time allocated for them to accomplish program activities;

9. Appropriateness of management plan and qualifications and experience of managers proposed;

Evaluation (20 points)

10. The appropriateness and usefulness of methods proposed to monitor activities and measure progress toward obtaining the project objectives;

11. The extent to which the evaluation plan assesses the effects of the project intervention(s) on the target population.

For second and third project years, noncompeting continuation applications will be evaluated on satisfactory performance in meeting the program objectives as determined by site visits made by Office of Minority Health staff or its representatives, progress reports, quality of future plans.

Information and Technical Assistance

Information on the application procedures and copies of application forms may be obtained from The OMH Grant Office, 8201 Greensboro Drive, Suite 600, McLean, Virginia 22102 (phone 703–821–2487).

Technical assistance on the programmatic content of the application may be obtained from Jacqueline Bowles, M.D., or Georgia Buggs, Office of Minority Health, Room 118F, HHH Building, Washington, DC 20201 (phone 1–800–444–6472 or 202–245–0020).

Technical assistance on budgets and other business management concerns may be obtained from Ralph Sloat, Grants Management Officer, Room 18A10, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857 (301–443–4033).

(The Catalog of Federal Domestic Assistance Number for this program is 13.160.)

Dated: April 12, 1989.

Samuel Lin,

Acting Director, Office of Minority Health.

[FR Doc. 89–9355 Filed 4–18–89; 8:45 am]

BILLING CODE 4160–17–M

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