6-14-89
Vol. 54 No. 113

federal register

Wednesday
June 14, 1989

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

OFFICIAL BUSINESS
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SECOND CLASS NEWSPAPER
Postage and Fees Paid
U.S. Government Printing Office
(ISSN 0097-6326)

6-14-89
Vol. 54 No. 113
Pages 25223-25436

federal register

Wednesday
June 14, 1989

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

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 550

Pay Differentials

AGENCY: Office of Personnel Management.

ACTION: Interim rule and request for comments.

SUMMARY: This rule will entitle General Schedule employees who are working in undeveloped tropical jungle regions outside the continental United States and who are exposed to unusual physical hardships and hazards to a pay differential of 25 percent. This rule is required by Pub. L. 89–512, which established hazardous duty pay for General Schedule employees.

DATES: This interim rule is effective June 14, 1989. Comments must be submitted on or before July 14, 1989.

ADDRESS: Send or deliver written comments to White Collar Pay and Allowances Division, Personnel Systems and Oversight Group, Office of Personnel Management, Room 7H30, Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: Don Paquin (202) 632–7858.

SUPPLEMENTARY INFORMATION: The Department of Justice has asked the Office of Personnel Management (OPM) to establish a 25 percent physical hardship/hazard pay differential for General Schedule employees working in primitive jungles. OPM is responsible for establishing hazardous duty pay differentials prescribed by section 5545(d) of title 5, United States Code.

The Department of Justice has Drug Enforcement Administration employees working in natural tropical forests and other jungle regions in foreign countries. These employees are involved in the search and destruction of illicit narcotics, narcotic crops, and narcotic laboratories in Asia, the Caribbean, and Central and South America. These employees are exposed to various unusual physical hardships. Some of these are:

—Work in extreme heat and humidity.
—Exposure to torrential rains and other inclement conditions common to the jungle.
—Exposure to painful diseases such as amoebic and bacillary dysentery.

The employees are also exposed to several unusual and serious hazards. Some of these hazards are:

—Travel by 4-wheel drive vehicle over unimproved roads in mountainous areas.
—Fording deep streams and rivers by vehicle or foot.
—Crossing ravines by improvised bridges such as fallen trees.
—Exposure to poisonous snakes and insects and dangerous carnivores.
—Exposure to serious diseases, such as hepatitis, malaria, and typhoid fever.

OPM currently authorizes hazardous duty pay differentials for several categories which cover situations similar to those described. These categories include:

—Travel on secondary or unimproved roads in mountainous areas where there is limited visibility and danger of rock, mud, or snow slides. Differential is 25 percent.
—Work on cliffs, narrow ledges, and other difficult terrain where a slip could cause serious injury or death. Differential is 25 percent.
—Work on or around hazardous waterways such as search and rescue work at night or in high winds and transfer of personnel or cargo between vessels and rocky shorelines at night or in foul weather. Differential is 25 percent.
—Work with virulent microbiological materials which, if introduced into the body, are likely to cause serious illness or death and for which complete protection cannot be provided. Differential is 25 percent.
—Work in confined spaces where temperatures exceed 110 degrees Fahrenheit. Differential is 4 percent.

None of these categories is sufficiently broad to cover the range of hardships and hazards encountered in undeveloped jungle regions. The application of existing categories is administratively impractical and creates pay inequities. A new category is necessary.

The physical exertion of working in the heat and humidity of the jungle causes unusual physical hardship and fatigue. The fatigue and dangers create a sufficient hazard and hardship to warrant payment of a 25 percent differential—the maximum allowed by law.

E.O. 12291, Federal Regulation

I have determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they are changes which will affect only employees of the Federal Government.

List of Subjects in 5 CFR Part 550

Administrative practice and procedure, Civil defense, Government employees, Wages.

U.S. Office of Personnel Management.
James M. Strock,
Acting Director.

Accordingly, OPM amends Subpart I of 5 CFR Part 550 as follows:

PART 550—PAY ADMINISTRATION (GENERAL)

Subpart I—Pay for Irregular or Intermittent Duty Involving Physical Hardship or Hazard

1. The authority for Subpart I of Part 550 continues to read as follows:

Authority: 5 U.S.C. 5545(d), 5548(b).

2. Appendix A to Subpart I of Part 550 is amended by adding a new category to the Hazard Pay Differential Table to read as follows:

Appendix A—Schedule of Pay Differential Authorized for Irregular or Intermittent Hazardous Duty Under Subpart I

HAZARD PAY DIFFERENTIAL, OF PART 550 PAY ADMINISTRATION (GENERAL)

Irregular or intermittent duty	Rate of hazard pay differential (percent)	Effective date
Tropical Jungle Duty: Work outdoors in undeveloped jungle regions outside the continental United States. Work must involve both of the following: (1) An unusual degree of physical hardship caused by high heat, humidity, or other inclement conditions; and (2) An unusual danger of serious injury or illness due to: (a) Travel on unimproved roads or rudimentary trails in rugged terrain (e.g., walking on narrow trails in steep mountainous areas, fording deep, fast-moving rivers, and crossing deep crevasses via log or other unsafe means); (b) Immediate presence of dangerous wildlife (e.g., venomous snakes, poisonous insects, and large carnivores); or (c) Known exposure to serious disease for which adequate protection cannot be provided.	25	June 14, 1989.

[FR Doc. 89-14054 Filed 6-13-89; 8:45 am]

BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 354

[Docket 89-082]

Commuted Traveltime Periods

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations concerning overtime services provided by employees of Plant Protection and Quarantine (PPQ) by adding a commuted traveltime allowance for a location in North Carolina. Commuted traveltime allowances are the periods of time required for PPQ employees to travel from their dispatch points and return there from the places where they perform Sunday, holiday, or other overtime duty. The Government charges a fee for certain overtime services provided by PPQ employees and, under certain circumstances, the fee may include the cost of commuted traveltime. This action is necessary to inform the public of the commuted traveltime between these locations.

EFFECTIVE DATE: June 14, 1989.

FOR FURTHER INFORMATION CONTACT: Paul R. Eggert, Director, Resource Management Support, PPQ, APHIS, USDA, Room 623, Federal Building, Hyattsville, MD, (301) 436-7764.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 7 CFR Part 354 require inspection, laboratory testing, certification, or quarantine of certain plants, plant products, animals and animal byproducts, or other commodities intended for importation into, or exportation from, the United States. When these services must be provided by an employee of PPQ on a Sunday or holiday, or at any other time outside the PPQ employee's regular duty hours, the Government charges a fee for the services in accordance with 7 CFR Part 354. Under circumstances described in § 354.1(a)(2), this fee may include the cost of commuted traveltime. Section 354.2 contains administrative instructions prescribing commuted traveltime allowances, which reflect, as nearly as is practicable, the periods of time required for PPQ employees to travel from their dispatch points and return there from the places where they perform Sunday, holiday, or other overtime duty.

We are amending § 354.2 of the regulations by adding a commuted traveltime allowance for a location in North Carolina. The amendment is set forth in the rule portion of this document. This action is necessary to inform the public of the commuted traveltime between the dispatch and service locations.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this rule will have an effect on the economy of less than $100 million; will not cause a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions; and will not cause a significant adverse effect 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.

For this action, the Office of Management and Budget has waived its review process required by Executive Order 12291.

The number of requests for overtime services of a PPQ employee at the location affected by our rule represents an insignificant portion of the total number of requests for these services in the United States.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Effective Date

The commuted traveltime allowances appropriate for employees performing services at ports of entry, and the features of the reimbursement plan for recovering the cost of furnishing port of entry services, depend upon facts within the knowledge of the Department of Agriculture. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, pursuant to the administrative procedure provisions in 5 U.S.C. 553, we find upon good cause that prior notice and other public procedure with respect to this rule are impracticable and unnecessary; we also find good cause for making this rule

effective less than 30 days after publication of this document in the Federal Register.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with state and local officials. (See 7 CFR Part 3015, Subpart V.)

List of Subjects in 7 CFR Part 354

Agricultural commodities, Exports, Government employees, Imports, Plants (Agriculture), Quarantine, Transportation.

Accordingly, 7 CFR Part 354 is amended as follows:

PART 354—OVERTIME SERVICES RELATING TO IMPORTS AND EXPORTS

1. The authority citation for Part 354 continues to read as follows:

Authority: 7 U.S.C. 2260, 49 U.S.C. 1741; 7 CFR 2.17, 2.51, and 371.2(c).

2. Section 354.2 is amended by adding, in alphabetical order, the information as shown below:

§ 354.2 Administrative instructions prescribing commuted traveltime.

* * * * *

COMMUTED TRAVELTIME ALLOWANCES

(In hours)

Location covered	Served from	Metropolitan area	
		Within	Outside
Add:			
*	*	*	*
North Carolina: Charlotte International Airport.	Laurinburg		5
*	*	*	*

Done in Washington, DC, this 8th day of June 1989.

James W. Glosser,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 89-14050 Filed 6-13-89; 8:45 am]

BILLING CODE 3410-34-M

9 CFR Part 78

[Docket No. 89-097]

Brucellosis in Cattle; State and Area Classifications

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: We are amending the brucellosis regulations concerning the interstate movement of cattle by changing the classification of Florida from a split status of Class B/Class C to all Class B. We have determined that Florida now meets the standards for Class B status. This action relieves certain restrictions on the interstate movement of cattle from Florida.

DATES: Interim rule effective June 8, 1989. Consideration will be given only to comments received on or before August 14, 1989.

ADDRESSES: To help ensure that your written comments are considered, send an original and three copies to Regulatory Analysis and Development, PPD, APHIS, USDA, Room 866, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket Number 89-097. Comments received may be inspected at USDA, Room 1141, South Building, 14th Street and Independence Avenue, SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. Jan Huber, Senior Staff Veterinarian, Cattle Diseases and Surveillance Staff, VS, APHIS, USDA, Room 731, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-5533.

SUPPLEMENTARY INFORMATION:

Background

Brucellosis is a contagious disease affecting animals and man, caused by bacteria of the genus *Brucella*.

The brucellosis regulations contained in 9 CFR Part 78 (referred to below as the regulations) provide a system for classifying States or portions of States according to the rate of brucella infection present, and the general effectiveness of a brucellosis control and eradication program. The classifications are Class Free, Class A, Class B, and Class C. States or areas that do not meet the minimum standards for Class C status are required to be placed under federal quarantine.

The brucellosis Class Free classification is based on a finding of no known brucellosis in cattle for the 12 months preceding classification as Class Free. The Class C classification is for States or areas with the highest rate of brucellosis. Class B and Class A fall between these two extremes. Restrictions on moving cattle interstate become less stringent as a State approaches or achieves Class Free status.

The standards for the different classifications of States or areas entail maintaining (1) a cattle herd infection rate not to exceed a stated level during 12 consecutive months; (2) a rate of infection in the cattle population (based on the percentage of brucellosis reactors found in the Market Cattle Identification (MCI) program—a program of testing at stockyards, farms, ranches, and slaughtering establishments) not to exceed a stated level; (3) a surveillance system that includes testing of dairy herds, participation of all slaughtering establishments in the MCI program, identification and monitoring of herds at high risk of infection—including herds adjacent to infected herds and herds from which infected animals have been sold or received, and having an individual herd plan in effect within a stated number of days after the herd owner is notified of the finding of brucellosis in a herd he or she owns; and (4) minimum procedural standards for administering the program.

Before the publication of this interim rule, Florida was divided into a Class B area and a Class C area. The Class C area included the following counties: Brevard, Broward, Charlotte, Collier, Dade, De Soto, Glades, Hardee, Hendry, Highlands, Hillsborough, Indian River, Lee, Manatee, Martin, Monroe, Okeechobee, Osceola, Palm Beach, Polk, Saint Lucie, and Sarasota. The Class B area included the remainder of the State.

To attain and maintain Class B status, the regulations require that a State or area must have: (1) An adjusted MCI reactor prevalence rate not to exceed three reactors per 1,000 cattle tested (0.3 percent) for 12 consecutive months; (2) an accumulated 12-month herd infection rate for brucellosis in cattle not to exceed 15 herds per 1,000 (1.5 percent); (3) a surveillance system that includes testing of dairy herds, participation of all slaughtering establishments in the MCI program, identification and monitoring of herds at high risk of infection, including herds adjacent to infected herds and herds from which infected animals have been sold or received, and having an individual herd plan in effect within a stated number of days after notification of brucellosis in a herd; and (4) minimum procedural standards for administering the program. After reviewing its brucellosis program records, we have concluded that the entire State of Florida meets the standards for Class B status.

Therefore, we are removing the counties in Florida from the list of Class C States in § 78.41(d) and are adding it to the list of Class B States in § 78.41(c)

so that this list includes the entire State of Florida. This action changes the split status of Florida from Class C/Class B to all Class B, and relieves certain restrictions on moving cattle interstate from Florida.

Immediate Action

James W. Glosser, Administrator of the Animal and Plant Health Inspection Service, has determined that there is good cause for publishing this rule without prior opportunity for public comment. Immediate action is warranted to remove unnecessary restrictions on the interstate movement of cattle from Florida.

Since prior notice and other public procedures with respect to this interim rule are impracticable and contrary to the public interest under these emergency conditions, there is good cause under 5 U.S.C. 553 to make it effective upon signature. We will consider comments that are received within 60 days of publication of this interim rule in the **Federal Register**. After the comment period closes, we will publish another document in the **Federal Register**, including discussion of any comments we receive and any amendments we are making to the rule as a result of the comments.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this rule will have an effect on the economy of less than $100 million; will not cause a major increase in costs or prices for consumers, individual industries, federal, State, or local government agencies, or geographic regions; and will not cause a significant adverse effect 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.

For this action, the Office of Management and Budget has waived its review process required by Executive Order 12291.

Cattle moved interstate are moved for slaughter, for use as breeding stock, or for feeding. Changing the status of Florida from Class C/Class B to all Class B reduces certain testing requirements and branding and spaying costs involved in the interstate movement of cattle from Class C areas.

The principal group affected by this change are the owners of herds in the former Class C areas of Florida that are not certified brucellosis-free and are not known to be affected with brucellosis. Buyers and exporters of cattle, stockyards, feedlots, and intermediate handling facilities are affected to a negligible degree.

In accordance with 9 CFR 78.9, all cattle in Class C noncertified-free herds can move interstate only to slaughter, or to a quarantined feedlot if they are "S" branded, unless they are steers, spayed heifers, or bulls under 18 months of age. It is estimated that there are 409,000 cows in such herds in the Class C area of Florida. We anticipate that these cows will produce approximately 174,000 heifers during the next year. We estimate that at least 50,000 of these will be sold interstate. The change to Class B status makes it possible to sell them for purposes other than slaughter or consignment to a quarantined feedlot, without spaying them, in accordance with 9 CFR 78.9(c)(3).

The cost of spaying 50,000 heifers is estimated at $550,000 or $11 per head. Not all the heifers would be spayed if the Class C status remained unchanged; many would be sold for slaughter or "S" branded and moved to quarantined feedlots. However, $550,000 can be considered one upper limit for benefits accrued by the change from Class C to Class B status.

Another cost of moving cattle from Class C areas is the cost associated with "S" branding, required if unspayed animals are moved to quarantined feedlots, or indirectly to slaughter through intermediate handling facilities, nonquarantined feedlots, or stockyards. Based on current prices and demand for light heifers, the net proceeds per animal will be increased by approximately $20 if the heifers from nonquarantined herds are not required to be "S" branded or sold for slaughter, resulting in a maximum $1,000,000 savings to the industry if 50,000 heifers were so moved.

The upper limit to the economic impact of this rule would be $1,550,000 of financial benefit accrued primarily by owners of herds that are not certified brucellosis free and that are located in former Class C areas. This figure assumes that all cattle moved from these herds are not spayed, and are moved to destinations that require "S" branding. Actual savings will be less, since some cattle will be spayed or not "S" branded.

According to National Agricultural Statistics Service estimates, there are 7,144 cattle herds in the Class C area of Florida. Of these herds, 2,269 are certified free. Of the 4,875 noncertified-free herds, 4,606 are not quarantined. These 4,606 herds would be directly and positively affected by the change. The owners of these 4,606 herds could each receive additional profits of up to $20 per calf sold, or an average of $217 per herd owner, assuming equal herd sizes. About 4,556 (99 percent) of the 4,606 herds are small businesses (annual revenues of less than $500,000). Because the 50 herds that are large businesses have larger herd sizes, and because not all herd owners will sell their cattle in ways that do not require spaying or "S" branding, the actual profit to each small hard owner will be less.

We have therefore determined that changing Florida's brucellosis status will not significantly affect current market patterns, and will not have a significant economic impact on small entities.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

This rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR Part 3015, Subpart V.)

List of Subjects in 9 CFR Part 78

Animal diseases, Brucellosis, Cattle, Hogs, Quarantine, Transportation.

Accordingly, we are amending 9 CFR Part 78 as follows:

PART 78—BRUCELLOSIS

1. The authority citation for Part 78 continues to read as follows:

Authority: 21 U.S.C. 111–114a–1, 114g, 115, 117, 120, 121, 123–126, 134b, 134f; 7 CFR 2.17, 2.51, and 371.2(d).

§ 78.41 [Amended]

2. Section 78.41, paragraph (c) is amended by removing "(Counties of Alachua, Baker, Bay, Bradford, Calhoun, Citrus, Clay, Columbia, Dixie, Duval, Escambia, Flagler, Franklin, Gadsden, Gilchrist, Gulf, Hamilton, Hernando, Holmes, Jackson, Jefferson, Lafayette, Lake, Leon, Levy, Liberty, Madison, Marion, Nassau, Okaloosa, Orange, Pasco, Pinellas, Putman, Saint Johns, Santa Rosa, Seminole, Sumter, Suwanee,

Taylor, Union, Volusia, Wakulla, Walton, and Washington)" immediately after Florida.

3. Section 78.41, paragraph (d) is removed.

Done in Washington, DC, this 8th day of June 1989.

James W. Glosser,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 89-14105 Filed 6-13-89; 8:45 am]

BILLING CODE 3410-34-M

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9 CFR Part 78

[Docket No. 89-099]

Brucellosis in Cattle; State and Area Classifications

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: We are amending the brucellosis regulations concerning the interstate movement of cattle by changing the classification of Kentucky from Class B to Class A. We have determined that Kentucky now meets the standards for Class A status. This action relieves certain restrictions on the interstate movement of cattle from Kentucky.

DATES: Interim rule effective June 8, 1989. Consideration will be given only to comments received on or before August 14, 1989.

ADDRESSES: To help ensure that your written comments are considered, send an original and three copies of written comments to Regulatory Analysis and Development, PPD, APHIS, USDA, Room 866, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket Number 89-099. Comments received may be inspected at USDA, Room 1141, South Building, 14th Street and Independence Avenue SW., Washington, D.C., between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. Jan Huber, Senior Staff Veterinarian, Cattle Diseases and Surveillance Staff, VS, APHIS, USDA, Room 731, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-5533.

SUPPLEMENTARY INFORMATION:

Background

Brucellosis is a contagious disease affecting animals and man, caused by bacteria of the genus *Brucella*.

The brucellosis regulations contained in 9 CFR Part 78 (referred to below as the regulations) provide a system for classifying States or portions of States according to the rate of brucella infection present, and the general effectiveness of a brucellosis control and eradication program. The classifications are Class Free, Class A, Class B, and Class C. States or areas that do not meet the minimum standards for Class C are required to be placed under Federal quarantine.

The brucellosis Class Free classification is based on a finding of no known brucellosis in cattle for the 12 months preceding classification as Class Free. The Class C classification is for States or areas with the highest rate of brucellosis. Class B and Class A fall between these two extremes. Restrictions on moving cattle interstate become less stringent as a State approaches or achieves Class Free status.

The standards for the different classifications of States or areas entail maintaining (1) a cattle herd infection rate not to exceed a stated level during 12 consecutive months; (2) a rate of infection in the cattle population (based on the percentage of brucellosis reactors found in the Market Cattle Identification (MCI) program—a program of testing at stockyards, farms, ranches, and slaughtering establishments) not to exceed a stated level; (3) a surveillance system that includes testing of dairy herds, participation of all slaughtering establishments in the MCI program, identification and monitoring of herds at high risk of infection—including herds adjacent to infected herds and herds from which infected animals have been sold or received, and having an individual herd plan in effect within a stated number of days after the herd owner is notified of the finding of brucellosis in a herd he or she owns; and (4) minimum procedural standards for administering the program.

Before the publication of this interim rule, Kentucky was classified as a Class B State because of its herd infection rate and its MCI reactor prevalence rate. However, after reviewing its brucellosis program records, we have concluded that the State of Kentucky meets the standards for Class A status.

To attain and maintain Class A status, a State or area must (1) not exceed a cattle herd infection rate, due to field strain *Brucella abortus* of 0.25 percent or 2.5 herds per 1,000 based on the number of reactors found within the State or area during any 12 consecutive months, except in States with 10,000 or fewer herds; (2) maintain a 12 consecutive months MCI reactor prevalence rate not to exceed one reactor per 1,000 cattle tested (0.10 percent); and (3) have an approved individual herd plan in effect within 15 days of locating the source herd or recipient herd.

Therefore, we are removing Kentucky from the list of Class B States in § 78.41(c) and adding it to the list of Class A States in § 78.41(b). This action relieves certain restrictions on moving cattle interstate from Kentucky.

Immediate Action

James W. Glosser, Administrator of the Animal and Plant Health Inspection Service, has determined that there is good cause to publish this interim rule without prior opportunity for public comment. Immediate action is warranted to remove unnecessary restrictions on the interstate movement of cattle from Kentucky.

Since prior notice and other public procedures with respect to this interim rule are impracticable and contrary to the public interest under these conditions, there is good cause under 5 U.S.C. 553 to make it effective upon signature. We will consider comments that are received within 60 days of publication of this interim rule in the **Federal Register**. After the comment period closes, we will publish another document in the **Federal Register**, including discussion of any comments we receive and any amendments we are making to the rule as a result of the comments.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this rule will have an effect on the economy of less than $100 million; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not cause a significant adverse effect 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.

For this action, the Office of Management and Budget has waived its review process required by Executive Order 12291.

Cattle moved interstate are moved for slaughter, for use as breeding stock, or for feeding. Changing the status of Kentucky from Class B to Class A reduces certain testing and other requirements governing the interstate movement of cattle from Kentucky.

However, cattle from certified brucellosis-free herds moving interstate are not affected by this change.

The principal group affected would be the owners of noncertified herds in Kentucky not known to be affected with brucellosis seeking to sell cattle.

There are an estimated 60,000 herds in Kentucky, most of which are owned by small entities, that potentially would be affected by this rule. Last year Kentucky tested 379,121 eligible cattle at saleyards alone, to qualify cattle for sale in lieu of "S" branding and sales to quarantined feedlots. This testing costs approximately $3 per head or $1,140,000. Since herd sizes vary, larger herds will accumulate more savings than smaller herds. Also, not all herd owners will choose to market their cattle in a way that accrues these cost savings. The overall effect of this rule on small entities should be to provide very small economic benefit.

Therefore, we believe that changing Kentucky's brucellosis status will not significantly affect market patterns, and will not have a significant economic impact on the small entities affected by this interim rule.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

This rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR Part 3015, Subpart V.)

List of Subjects in 9 CFR Part 78

Animal diseases, Brucellosis, Cattle, Hogs, Quarantine, Transportation.

Accordingly, we are amending 9 CFR Part 78 as follows:

PART 78—BRUCELLOSIS

1. The authority citation for Part 78 continues to read as follows:

Authority: 21 U.S.C. 111–114a–1, 114g, 115, 117, 120, 121, 123–126, 134b, 134f; 7 CFR 2.17, 2.51, and 371.2(d).

§ 78.41 [Amended]

2. Section 78.41, paragraph (b) is amended by adding "Kentucky," immediately before "Missouri".

3. Section 78.41, paragraph (c) is amended by removing "Kentucky".

Done in Washington, DC, this 8th day of June 1989.

James W. Glosser,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 89–14104 Filed 6–13–89; 8:45 am]

BILLING CODE 3410–34–M

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9 CFR Part 97

[Docket No. 89–102]

Commuted Traveltime Periods

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations concerning overtime services provided by employees of Veterinary Services (VS) by removing or adding commuted traveltime allowances for various locations in Arizona. Commuted traveltime allowances are the periods of time required for VS employees to travel from their dispatch points and return there from the places where they perform Sunday, holiday, or other overtime duty. The Government charges a fee for certain overtime services provided by VS employees and, under certain circumstances, the fee may include the cost of commuted traveltime. This action is necessary to inform the public of the commuted traveltime between these locations.

EFFECTIVE DATE: June 14, 1989.

FOR FURTHER INFORMATION CONTACT: Louise R. Lothery, Acting Director, Resource Management Support, VS, APHIS, USDA, Room 740, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–7517.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR Part 97 require inspection, laboratory testing, certification, or quarantine of certain animals, animal products, plants, plant products, or other commodities intended for importation into, or exportation from, the United States. When these services must be provided by an employee of VS on a Sunday or holiday, or at any other time outside the VS employee's regular duty hours, the Government charges a fee for the services in accordance with 9 CFR Part 97. Under circumstances described in § 97.1(a), this fee may include the cost of commuted traveltime. Section 97.2 contains administrative instructions prescribing commuted traveltime allowances, which reflect, as nearly as practicable, the time required for VS employees to travel from their dispatch points and return there from the places where they perform Sunday, holiday, or other overtime duty.

We are amending § 97.2 of the regulations by removing or adding commuted traveltime allowances for various locations in Arizona. The amendments are set forth in the rule portion of this document. This action is necessary to inform the public of the commuted traveltime between these locations.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this rule will have an effect on the economy of less than $100 million; will not cause a major increase in costs or prices for consumers, individual industries, federal, state or local government agencies, or geographic regions; and will not cause a significant adverse effect 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.

For this action, the Office of Management and Budget has waived its review process required by Executive Order 12291.

The number of requests for overtime services of a VS employee at the locations affected by our rule represents an insignificant portion of the total number of requests for these services in the United States.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Effective Date

The commuted traveltime allowances appropriate for employees performing services at ports of entry, and the features of the reimbursement plan for recovering the cost of furnishing port of entry services, depend upon facts within the knowledge of the Department of Agriculture. It does not appear that public participation in this rulemaking proceeding would make additional

relevant information available to the Department.

Accordingly, pursuant to the administrative procedure provisions in 5 U.S.C. 533, we find upon good cause that prior notice and other public procedure with respect to this rule are impracticable and unnecessary; we also find good cause for making this rule effective less than 30 days after publication of this document in the **Federal Register.**

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with state and local officials. (See 7 CFR Part 3015, Subpart V.)

List of Subjects in 9 CFR Part 97

Exports, Government employees, Imports, Livestock and livestock products, Poultry and poultry products, Transportation.

Accordingly, 9 CFR Part 97 is amended as follows:

PART 97—OVERTIME SERVICES RELATING TO IMPORTS AND EXPORTS

1. The authority citation for Part 97 continues to read as follows:

Authority: 7 U.S.C. 2260, 49 U.S.C. 1741; 7 CFR 2.17, 2.51 and 371.2(d).

2. Section 97.2 is amended by removing or adding, in alphabetical order, the information as shown below:

§ 97.2 Administrative instructions prescribing commuted traveltime.

* * * * *

COMMUTED TRAVELTIME ALLOWANCES

[In hours]

Location covered	Served from—	Metropolitan area	
		Within	Outside
Remove:			
* * * * *			
Arizona:			
San Luis	Yuma		2
* * * * *			
Add:			
* * * * *			
Arizona:			
* * * * *			
Douglas	Phoenix		6
Do	Sierra Vista		2
* * * * *			
Nogales	Phoenix		6
Do	Sierra Vista		2
* * * * *			
San Luis	Phoenix		6
* * * * *			

Done in Washington, DC, this 8th day of June 1989.

James W. Glosser,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 89-14106 Filed 6-13-89; 8:45 am]

BILLING CODE 3410-10-M

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9 CFR Part 97

[Docket No. 89-078]

Commuted Traveltime Periods

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations concerning overtime services provided by employees of Veterinary Services (VS) by removing or adding commuted traveltime allowances for various locations in Michigan and Oregon. Commuted traveltime allowances are the periods of time required for VS employees to travel from their dispatch points and return there from the places where they perform Sunday, holiday, or other overtime duty. The Government charges a fee for certain overtime services provided by VS employees and, under certain circumstances, the fee may include the cost of commuted traveltime. This action is necessary to inform the public of the commuted traveltime between these locations.

EFFECTIVE DATE: June 14, 1989.

FOR FURTHER INFORMATION CONTACT: Louise R. Lothery, Acting Director, Resource Management Support, VS, APHIS, USDA, Room 740, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-7517.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR Part 97 require inspection, laboratory testing, certification, or quarantine of certain animals, animal products, plants, plant products, or other commodities intended for importation into, or exportation from, the United States. When these services must be provided by an employee of VS on a Sunday or holiday, or at any other time outside the VS employee's regular duty hours, the Government charges a fee for the services in accordance with 9 CFR Part 97. Under circumstances described in § 97.1(a), this fee may include the cost of commuted traveltime. Section 97.2 contains administrative instructions prescribing commuted traveltime allowances, which reflect, as nearly as practicable, the time required for VS employees to travel from their dispatch points and return there from the places where they perform Sunday, holiday, or other overtime duty.

We are amending § 97.2 of the regulations by removing or adding commuted traveltime allowances for various locations in Michigan and Oregon. The amendments are set forth in the rule portion of this document. This action is necessary to inform the public of the commuted traveltime between these locations.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this rule will have an effect on the economy of less than $100 million; will not cause a major increase in costs or prices for consumers, individual industries, federal, state or local government agencies, or geographic regions; and will not cause a significant adverse effect 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.

For this action, the Office of Management and Budget has waived its review process required by Executive Order 12291.

The number of requests for overtime services of a VS employee at the locations affected by our rule represents an insignificant portion of the total number of requests for these services in the United States.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Effective Date

The commuted traveltime allowances appropriate for employees performing services at ports of entry, and the features of the reimbursement plan for recovering the cost of furnishing port of entry services, depend upon facts within the knowledge of the Department of Agriculture. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, pursuant to the administrative procedure provisions in 5 U.S.C. 533, we find upon good cause that prior notice and other public procedure

with respect to this rule are impracticable and unnecessary; we also find good cause for making this rule effective less than 30 days after publication of this document in the **Federal Register.**

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with state and local officials. (See 7 CFR Part 3015, Subpart V.)

List of Subjects in 9 CFR Part 97

Exports, Government employees, Imports, Livestock and livestock products, Poultry and poultry products, Transportation.

Accordingly, 9 CFR Part 97 is amended as follows:

PART 97—OVERTIME SERVICES RELATING TO IMPORTS AND EXPORTS

1. The authority citation for Part 97 continues to read as follows:

Authority: 7 U.S.C. 2260, 49 U.S.C. 1741; 7 CFR 2.17, 2.51 and 371.2(d).

2. Section 97.2 is amended by removing or adding, in alphabetical order, the information as shown below:

§ 97.2 Administrative instructions prescribing commuted traveltime

* * * * *

COMMUTED TRAVELTIME ALLOWANCES

[In hours]

Location covered	Served from	Metropolitan area	
		Within	Outside
Remove:			
* * * * *			
Michigan:			
Detroit	Blissfield and Port Huron.		3
Port Huron.	Saginaw		4
* * * * *			
Oregon:			
Portland	Canby		3
* * * * *			
Add:			
* * * * *			
Michigan:			
Detroit		3	
Do	Beaverton		6
Do	Chelsea		3
Do	Clara		6
Do	Kalamazoo		5
Do	Lansing		4
Do	Port Huron		4
Port Huron.		1	
Do	Beaverton		6
Do	Chelsea		6
Do	Clara		6

COMMUTED TRAVELTIME ALLOWANCES—Continued

[In hours]

Location covered	Served from	Metropolitan area	
		Within	Outside
Do	Lansing		5
Do	Kalamazoo		6
* * * * *			
Oregon:			
Portland	Tigard	2	
* * * * *			

Done in Washington, DC, this 8th day of June 1989.

James W. Glosser,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 89-14049 Filed 6-13-89; 8:45 am]

BILLING CODE 3410-10-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 88-ASW-59; Amdt. 39-6237]

Airworthiness Directives; Aerospatiale (Societe Nationale Industrielle Aerospatiale) Model AS 355 Series Helicopters

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 Airworthiness Directive (AD) No. 88-25-09 which was previously made effective as to all known U.S. owners and operators of certain Aerospatiale AS 355 series helicopters by individual letter. The AD required a vibration level measurement, balance, and replacement, if necessary, of the tail rotor drive shaft. The AD was needed to prevent failure of the tail rotor drive shaft which could result in the loss of the helicopter.

DATES: Effective July 14, 1989, as to all persons except those persons to whom it was made immediately effective by priority letter AD No. 88-25-09, issued December 9, 1988, which contained this amendment.

Compliance: Required as indicated in the body of the AD.

ADDRESSES: The applicable service bulletins may be obtained from Aerospatiale Helicopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75053-4005, or may be examined in the Regional Rules Docket, Office of the Assistant Chief Counsel, FAA, 4400 Blue Mound Road, Room 158, Building 3B, Fort Worth, Texas.

FOR FURTHER INFORMATION CONTACT: Mr. Samuel E. Brodie, FAA, Fort Worth, Texas 76193-0110, telephone (817) 624-5116.

SUPPLEMENTARY INFORMATION: On December 9, 1988, Priority Letter AD No. 88-25-09 was issued and made effective immediately as to all known U.S. owners and operators of certain Aerospatiale Model AS 355 series helicopters. The AD required a vibration level measurement, balance, and replacement, if necessary, of the tail rotor drive shaft. AD action was necessary to prevent the failure of the tail rotor drive shaft and possible loss of the helicopter.

Since it was found that immediate corrective action was required, notice and public procedure thereon were impracticable and contrary to the public interest, and good cause existed to make the AD effective immediately by individual letters issued December 9, 1988, to all known U.S. owners and operators of certain Aerospatiale Model AS 355 series helicopters. These conditions still exist, and the AD is hereby published in the **Federal Register** as an amendment to § 39.13 of Part 39 of the FAR to make it effective as to all persons.

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 Federal 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 Executive Order 12291 with respect to this rule since the rule must be issued immediatly to correct an unsafe condition in aircraft. It has been further determined that this action 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). A copy of it, when filed,

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, and Safety.

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—AIRWORTHINESS DIRECTIVES

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. Section 39.13 is amended by adding the following new AD:

Aerospatiale (Societe Nationale Industrielle Aerospatiale): Applies to all Aerospatiale Model AS 355 series helicopters containing Part Number (P/N) 355A34-1037-00. tailrotor drive shaft, certificated in any category. (Docket No. 88-ASW-59)

Compliance is required as indicated, unless already accomplished.

To prevent tail rotor drive shaft failure, which could result in the loss of control, accomplish the following:

(a) Within the next 50 hours' time in service after receipt of this AD, and thereafter at intervals not to exceed 100 hours' time in service, perform the vibration level measurement with the aircraft on the ground and with the rotor turning. in accordance with Maintenance Work Card 65-10-00-604.

(1) If the measured vibration level is equal to or above 3 inches per second (IPS)—

(i) Replace the tail rotor drive shaft with a serviceable part prior to further flight; or

(ii) The tail rotor drive shaft may be operated for no more than an additional 50 hours' time in service provided the vibration level is reduced to 1.75 IPS or below and no cracks are found by the following inspections. Before the next flight and thereafter at intervals not to exceed 10 hours' time in service, inspect the inside surface of the shaft in the area of the forward flange and splined fitting attachment (both ends of the shaft, adjacent to the Jo-bolts) for cracks. If cracks are found, replace the tail rotor drive shaft with an airworthy shaft prior to further flight.

(2) If the measured vibration level is above 1.75 IPS, but less than 3 IPS:

(i) Clean the fan assembly in accordance with maintenance Work Card 12-00-00-306.

(ii) Perform a new vibration level check.

(iii) If the vibration level is less than 1.75 IPS after cleaning, no further action is required.

(iv) If the vibration level is above 1.75 IPS, balance the fan assembly in accordance with Maintenance Work Card 65-10-00-604, and perform a new vibration level check.

(A) If the vibration level is less than 1.75 IPS after balancing, no further action is required.

(B) If the measured vibration level measures above 1.75 IPS, inspect the sliding flange splines for wear and the fan bearings for abnormal play in accordance with the applicable Maintenance Work Cards. Replace parts found outside specified limits and perform a new vibration check. If the vibration level remains above 1.75 IPS, replace the tail rotor drive shaft with a serviceable part prior to further flight.

(3) If the measured vibration level is below 1.75 IPS, no further action is required.

(b) Accomplish the vibration level measurement and shaft replacement, as necessary, in accordance with the instruction of paragraph (a) before and after the replacement of any fan assembly component or any tail rotor drive shaft.

(c) Replace the tail rotor drive shaft in accordance with the instructions of paragraph (a)(1) if—

(1) The vibration level exceeded 3 IPS as measured during previous compliance with Aerospatiale Service bulletin 05.20, before issuance of this AD; or

(2) The tail rotor drive shaft was installed when the oil cooler fan was changed for foreign object damage or when the fan bearings were changed for bearing discrepancies.

(d) An alternate method of compliance with the AD which provides an equivalent level of safety may be used if approved by the Manager, Rotorcraft Standards Staff, ASW-110, FAA, Fort Worth, Texas 76193-0110.

This amendment becomes effective July 14, 1989 as to all persons except those persons to whom it was made immediately effective by AD No. 88-25-09, issued December 9, 1988, which contained this amendment.

Issued in Fort Worth, Texas, on June 2, 1989.

A.C. Caviness,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 89-14091 Filed 6-13-89; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 89-NM-71-AD; Amdt. 39-6235]

Airworthiness Directives; McDonnell Douglas Model DC-10-15, -30, -30F, and KC-10A (Military) Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to McDonnell Douglas DC-10-15, -30, -30F, and KC-10A (Military) series airplanes, which currently requires an optically aided visual inspection of the attach structure of the engine forward mount truss assembly on pylons 1 and 3. This amendment requires repetitive eddy current inspections of the engine forward mount truss assembly on pylons 1 and 3. This action is prompted by a report of fatigue cracks resulting in the failure of both lower legs of the engine forward mount truss assembly on pylon 1, and additional recent reports of fatigue cracks found by eddy current inspections. This condition, if not corrected, could result in the loss of structural integrity of the wing engine forward mount truss fitting and eventual loss of the wing engine from the airplane.

EFFECTIVE DATE: June 22, 1989.

ADDRESSES: The applicable service information may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1-750 (54-60). This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or at 3229 East Spring Street, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Dorenda Baker, Aerospace Engineer, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region, Airframe Branch (ANM-120L), 3229 East Spring Street, Long Beach, California 90806-2425; telephone (213) 988-5231.

SUPPLEMENTARY INFORMATION: On March 30, 1989, the FAA issued Airworthiness Directive (AD) 89-05-53, Amendment 39-6189 (54 FR 14207; April 10, 1989), which requires an optically aided visual inspection of the attach structure of the engine forward mount truss assembly on pylons 1 and 3 on McDonnell Douglas Model DC-10 series airplanes. This action was prompted by a report of fatigue cracks resulting in the failure of both lower legs of the engine forward mount truss assembly. This condition, if not corrected, could result in the loss of structural integrity of the wing engine forward mount truss fitting and eventual loss of the wing engine from the airplane.

Subsequent to the issuance of AD 89-05-53, there have been nine additional reports of cracks extending from the attaching bolt holes that were found using an eddy current inspection technique developed for this application. These cracks had not yet propagated to the point where they would have been

detectable using the visual inspection method currently required.

The FAA has reviewed and approved McDonnell Douglas Alert Service Bulletin A54–99 Revision 1, dated March 31, 1989, which provides instructions for eddy current inspections of the engine forward mount truss assembly, repair, and ultimate replacement of the truss assembly.

Since this situation is likely to exist or develop on other airplanes of the same type design, this AD supersedes AD 89–05–53 to require repetitive eddy current inspections of the four forward horizontal flange attaching bolt holes of the engine forward mount truss assembly on pylons 1 and 3, and repair or replacement, if necessary, in accordance with the service bulletin previously described.

The requirements of this AD are considered interim action. The manufacturer is currently developing a modification which, if installed, will terminate the need for the repetitive inspections. Once the modification is developed and approved, the FAA may consider revising this AD to require its installation as terminating action for the required inspections.

Since a situation 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). A copy of it, when filed, may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air Transportation, Aircraft, Aviation Safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 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. Section 39.13 is amended by superseding AD 89–05–53, Amendment 39–6189 (54 FR 14207; April 10, 1989), with the following new airworthiness directive:

McDonnell Douglas: Applies to Model McDonnell Douglas DC–10–15, –30, –30F, and KC–10 (Military) series airplanes, certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent the failure of the engine forward mount truss assembly, accomplish the following:

A. Prior to the accumulation of 9,000 landings or 30,000 flight hours, whichever occurs first, or within 20 days after the effective date of this AD, whichever occurs later, conduct an eddy current inspection of the engine forward mount truss assembly on pylons 1 and 3, in accordance with Paragraph 2, "Accomplishment Instructions," of McDonnell Douglas Alert Service Bulletin No. A54–99 Rev. 1, dated March 31, 1989 (hereafter referred to as the Service Bulletin):

1. If no cracks are found in either horizontal flange, conduct repetitive eddy current inspections in accordance with the Service Bulletin at intervals not to exceed 2,000 landings or 6,000 flight hours, whichever occurs first.

2. If a single crack indication in one bolt hole is found with no crack indication extending out from under the AUB7013–1 angle, and there are no crack indications in the opposite fitting:

a. Conduct repetitive eddy current inspections in accordance with the Service Bulletin at intervals not to exceed 450 flight hours.

b. Prior to the accumulation of 500 landings or 2,000 flight hours, whichever occurs first, after the initial detection of a crack, install SR10540003–3 Rev. A. strap on the horizontal flange of the cracked AUB7000–501 truss fitting, or SR10540003–4 Rev. A. strap on the horizontal flange of the cracked AUB7000–502 truss fitting, as applicable, in accordance with the Service Bulletin. After installation of the strap, conduct repetitive eddy current inspections in accordance with the Service Bulletin at intervals not to exceed 900 flight hours.

3. If a single crack indication in one bolt hole is found with the crack extending out from under the AUB7013–1 angle, but not above the tangent point of the fillet radius to the vertical flange, as shown on Figure 2 (Condition III) of the Service Bulletin, and there are no crack indications in the opposite fitting:

a. Prior to further flight, install SR10540003–3 Rev. A. strap on the horizontal flange of the cracked AUB7000–501 truss fitting, or SR10540003–4 Rev. A. strap on the horizontal flange of the cracked AUB7000–502 truss fitting, as applicable, in accordance with the Service Bulletin.

b. Conduct repetitive eddy current inspections in accordance with the Service Bulletin at intervals not to exceed 225 flight hours.

4. If multiple crack indications in the bolt holes are found with no crack extending out from under the AUB7013–1 angle, and there are no crack indications in the opposite fitting:

a. Prior to further flight, install SR10540003–3 Rev. A. strap on the horizontal flange of the cracked AUB7000–501 truss fitting, or SR10540003–4 Rev. A. strap on the horizontal flange of the cracked AUB7000–502 truss fitting, as applicable, in accordance with the Service Bulletin.

b. Conduct repetitive eddy current inspections in accordance with the Service Bulletin at intervals not to exceed 900 flight hours.

5. If multiple crack indications in the bolt holes are found with a crack extending out from under the AUB7013–1 angle, but not progressing above the tangent point of the fillet radius to the vertical flange, as shown in Figure 2 (Condition V) of the Service Bulletin, and there are no crack indications in the opposite fitting:

a. Prior to further flight, install SR10540003–3 Rev. A. strap on the horizontal flange of the cracked AUB7000–501 truss fitting, or SR10540003–4 Rev. A. strap on the horizontal flange of the cracked AUB7000–502 truss fitting, as applicable, in accordance with the Service Bulletin.

b. Conduct repetitive eddy current inspections in accordance with the Service Bulletin at intervals not to exceed 225 flight hours.

6. If a crack is found to have extended out from under the AUB7013–1 angle, through the fillet radius into the vertical flange, as shown in Figure 2 (Condition VI) of the Service Bulletin: Prior to further flight, replace the cracked/repaired truss fitting with a new fitting and continue inspections in accordance with this AD.

7. If cracks are found in both AUB7000 truss fittings: Prior to further flight, replace the cracked/repaired truss fitting with a new fitting and continue inspections in accordance with this AD.

B. An alternate means of compliance or adjustment of 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 will either concur or comment and then send it to the Manager, Los Angeles Aircraft Certification Office.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate 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 information from the manufacturer may obtain copies upon request to McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, CI-750 (54-60). This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California.

This amendment supersedes AD 89-05-53, Amendment 39-6189.

This amendment becomes effective June 22, 1989.

Issued in Seattle, Washington, on May 26, 1989.

Steven B. Wallace,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89-14092 Filed 6-13-89; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 88-NM-170-AD; Amdt. 39-6236]

Airworthiness Directives; McDonnell Douglas Model DC-9 and C-9 (Military) Series Airplanes, Including Model DC-9-80 Series and Model MD-88 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction of final rule.

SUMMARY: This action corrects an airworthiness directives (AD), applicable to McDonnell Douglas Model DC-9 and C-9 (Military) series airplanes, including Model DC-9-80 series and Model MD-88 airplanes, which requires inspection and repair or replacement, if necessary, of the dorsal fin attach angles. This action corrects the initial compliance threshold, reflected in the published final rule, for the accomplishment of the inspections required on airplanes with dorsal fin one-piece attach angles.

EFFECTIVE DATE: June 14, 1989.

ADDRESSES: The applicable service information may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director of Publications, C1-L00 (54-60). This information may be examined at FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or 3229 East Spring Street, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Mr. Michael N. Asahara, DC-9/MD-80 Program Manager, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California 90806-2425; telephone (213) 988-5321.

SUPPLEMENTARY INFORMATION: On March 30, 1989, the FAA issued AD 89-08-10, Amendment 39-6185 (54 FR 14644; April 12, 1989), applicable to McDonnell Douglas Model DC-9 series airplanes, which requires various visual and eddy current inspections for cracking in the dorsal fin attach angles, and repair or replacement, if necessary.

Paragraph B.1. of the final rule, which addressed the inspection requirements for airplanes equipped with dorsal fin one-piece attach angles, should have stated that the visual inspections from inside the airplane were to be initially accomplished "[W]ithin 500 landings from May 17, 1982, for airplanes with less than *22,500* landings * * *" However, due to a typographical error, that statement, as published, incorrectly identified the number of landings as *2,000* landings. Action is taken, therefore, to correct the final rule accordingly.

The Notice of Proposed Rulemaking, which was published in the **Federal Register** (53 FR 51820; December 23, 1988) prior to issuance of Amendment 39-6185, did identify the correct number of landings in paragraph B.1.

Since this action only corrects an editorial error in a final rule, it has no adverse economic impact and imposes no additional economic burden on any person. Therefore, notice and public procedures hereon are unnecessary and the amendment may be made effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Correction

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

PART 39—[AMENDED]

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. Section 39.13 is amended by correcting paragraph B.1. of Amendment 39.6185 (54 FR 14644; April 12, 1989), AD 89-08-10, as follows:

B. For airplanes with dorsal fin one-piece attach angle, part number 5912188-5 or -6, accomplish the following:

1. Within 500 landings from May 17, 1982, for airplanes with less than 22,500 landings; and within 100 landings from May 17, 1982, for airplanes with 22,500 or more landings; conduct the visual inspections, from inside the airplane, in accordance with paragraph A.1., above. In addition, conduct a visual inspection of the dorsal fin attach angle, from the outside of the airplane, for cracks.

This amendment becomes effective June 14, 1989.

Issued in Seattle, Washington, on June 1, 1989.

Leroy A. Keith,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89-14085 Filed 6-13-89; 8:45 am]

BILLING CODE 4910-13-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 142

RIN 3038-AA63

Indemnification of CFTC Employees

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule.

SUMMARY: This rulemaking adds a new Part 142 to Title 17 of the Code of Federal Regulations. Part 142 parallels provisions adopted by the Department of Justice, the Small Business Administration and the Department of Health and Human Services in permitting indemnification of Commodity Futures Trading Commission employees in appropriate situations as determined by the Commission.

EFFECTIVE DATE: June 14, 1989.

FOR FURTHER INFORMATION CONTACT: David W. Kuhnsman, Esq., Office of the General Counsel, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581, (202) 254-9880.

SUPPLEMENTARY INFORMATION:

Presently, the CFTC has no rules to indemnify Commission employees who are sued in their individual capacities and who suffer an adverse judgment as a result of conduct taken within the scope of their employment; nor does it have rules to settle these claims with agency funds. The prospect of personal liability might adversely affect Commission operations. This potential liability increased substantially last year when the Supreme Court decided *Westfall* v. *Erwin*, 484 U.S. ____ (1988), which held that federal employees sued in their individual capacities are not entitled to immunity for common law torts unless their acts were both within the scope of their employment and involved an exercise of governmental discretion.

Congress responded to the *Westfall* case by enacting the "Federal Employees Liability Reform and Tort Compensation Act of 1988" (Pub. L. 100–694). This new law removes the potential personal liability of federal employees for common law torts committed within the scope of their employment, and would instead provide that the exclusive remedy for such torts is through an action against the United States under the Federal Tort Claims Act (FTCA) (28 U.S.C. 1291, 1346, 1402, 2401, 2402, 2411, 2412, 2671–80 (1982)). However, the 1988 law does not extend or apply to a civil action against a federal employee which is brought for a violation of the Constitution of the United States or for a violation of a statute of the United States which authorizes such action. Thus, while common law tort actions regarding federal employees are properly brought against the United States, individual federal employees are still at risk for actions based on constitutional or statutory grounds under exceptions to the FTCA.

Litigation against federal employees based on constitutional rights was first found to be actionable by the Supreme Court in *Bivens* v. *Six Unknown Named Agents of the Federal Bureau of Narcotics*, 403 U.S. 388 (1971). In the wake of *Bivens*, there has been a tremendous volume of litigation initiated against individual federal employees. According to recent Department of Justice statistics, since 1971, over 14,000 claims have been filed against individual federal employees with approximately 5,000 lawsuits currently pending. Despite the fact that only an extremely small amount of *Bivens*-type actions have resulted in adverse judgments, the risk of personal liability and the burden of defending a constitutional tort suit as a result of one's employment duties continues. Relatedly, the potential for adverse judgments against a federal employee persists since private remedies recognized in federal statutes, such as the Right to Financial Privacy Act, were excluded from the FTCA as amended in 1988.

The Commission believes that the potential for a judgment against a Commission employee in his or her individual capacity could be detrimental to the Commission. The adoption of Part 142 reflects a change in CFTC policy to permit indemnification which would help alleviate this problem and afford CFTC employees the same protection now given to other federal employees in the Department of Justice, Small Business Administration and Department of Health and Human Services, where similar rules have been adopted.

This modification of CFTC policy permits, but does not require, the Commission to indemnify a Commission employee who suffers an adverse judgment, verdict, or monetary award, provided that the actions giving rise to the award were taken within the scope of employment and that such indemnification is in the interest of the United States as determined by the Commission.[1] The CFTC policy is designed to complement the protections afforded by the FTCA by permitting indemnification for adverse judgments stemming from constitutional and federal statutory torts. The policy also allows the Commission to settle a claim brought against an employee in his or her individual capacity by the payment of Commission funds, upon a determination by the Commission. However, absent exceptional circumstances, the Commission will not agree either to indemnify an employee or to settle a suit before entry of an adverse judgment.

Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, requires agencies to consider the impact of proposed rules on small entities. It is not anticipated that these new regulations, which deal solely with internal rules governing Commodity Futures Trading Commission personnel, will impose any new burden on small entities. Accordingly, the Chairman, on behalf of the Commission, hereby certifies pursuant to 5 U.S.C. 605(b) that the rule promulgated herein will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

The rule adopted herein does not contain a collection of information requirement, nor an "information collection request" within the meaning of 44 U.S.C. 3502(4), and relates solely to CFTC management and personnel. Therefore, the Commission has determined that the provisions of the Paperwork Reduction Act do not apply to this rule.

Waiver of Public Notice and Comment

The following regulations shall be effective immediately. The Commission finds that the amendments relate solely to agency organization, practice and procedure and that the public procedures and publication prior to the effective date of the amendments, in accordance with the Administrative Procedure Act, as codified, 5 U.S.C. 553, are not required.

List of Subjects in 17 CFR Part 142

Commodity futures, Administrative practice and procedure, Government employees, Employment, Tort claims.

For reasons stated in the preamble, Part 142, as set forth below, is added to Title 17 of the Code of Federal Regulations.

PART 142—INDEMNIFICATION OF CFTC EMPLOYEES

Sec.
142.1 Purpose and scope.
142.2 Policy.

Authority: 7 U.S.C. 4a(j).

§ 142.1 Purpose and scope.

This Part sets forth the policy and procedure with respect to the indemnification of Commission employees who are sued in their individual capacities and suffer an adverse judgment as a result of conduct taken within the scope of employment. (For purposes of this Part the term Commission employees includes all present and former Commissioners and employees of the Commission). This Part is intended to provide indemnification for adverse judgments for constitutional and federal statutory torts excepted from the Federal Tort Claims Act exclusive remedy provision 28 U.S.C. 2679(b) (as amended by the Federal Employees Liability Reform and Tort Compensation Act of 1988 (Pub. L. 100–694)). In any lawsuit which is filed against the employee alleging a common law tort occurring within the scope of employment, the United States may be substituted for the individual employee

[1] The officer or employee will generally be entitled to legal representation by the Department of Justice under 28 CFR 50.15–50.16.

and any liability which may be found will be assessed against the government, pursuant to the Federal Employees Liability Reform and Tort Compensation Act of 1988.

§ 142.2 Policy.

(a) The Commission may indemnify its employees by the payment of available funds, in whole, or in part, for any verdict, judgment or other monetary award which is rendered against any employee, provided that the conduct giving rise to the verdict, judgment or award was taken within the scope of his or her employment with the Commission and that such indemnification is in the interest of the United States, as determined by the Commission.

(b) The Commission may settle or compromise a personal damage claim against its employee by the payment of available funds, at any time, provided the alleged conduct giving rise to the personal damage claim was taken within the scope of employment and that such settlement is in the interest of the United States as determined by the Commission in its discretion.

(c) Absent exceptional circumstances, as determined by the Commission, the Commission will not entertain a request either to agree to indemnify or to settle a personal damage claim before entry of an adverse verdict, judgment or monetary award.

(d) When an employee of the Commission becomes aware that an action may be or has been filed against the employee in his or her individual capacity as a result of conduct taken within the scope of his or her employment, the employee should immediately notify the Commission's Office of General Counsel that such an action is pending or threatened.

(e) The employee may thereafter request either (1) indemnification to satisfy a verdict, judgment or award entered against the employee or (2) payment to satisfy the requirements of a settlement proposal. The employee shall submit a written request, with documentation including copies of the verdict, judgment, award or settlement proposal, as appropriate, to the head of his or her division or office, who thereupon shall submit to the General Counsel, in a timely manner, a recommended disposition of the request. The General Counsel shall also seek the views of the Department of Justice. The General Counsel shall forward the request, the division or office's recommendation and the General Counsel's recommendation to the Commission for decision.

(f) Any payment under this section either to indemnifv a Commodity Futures Trading Commission employee or to settle a personal damage claim shall be contingent upon the availability of appropriated funds of the Commodity Futures Trading Commission.

Issued in Washington, DC on June 7, 1989.

By the Commission.

Jean A. Webb,

Secretary of the Commission, Commodity Futures Trading Commission.

[FR Doc. 89-14053 Filed 6-13-89; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 154

[Docket No. RM89-13-000; Order No. 514]

Revision of Formula for Computing Monthly Carrying Charges in PGA Filings; Interim Rule

Issued June 8, 1989.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Interim Rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is issuing an interim rule to revise the formula used to compute the monthly carrying charge rate for Account No. 191 carrying charges required in the Commission's Purchased Gas Adjustment (PGA) filings. Under the revised regulations, the daily interest rate to be determined in the second step of the carrying charges formula in § 154.305(h)(4) of the Commission's regulations must be expressed to the nearest one ten-thousandth of one percent (*i.e.*, rounded to the sixth decimal place). The Commission's regulations currently require the daily interest rate to be expressed to the nearest one one-hundredth of one percent (*i.e.*, rounded to the fourth decimal place). The Commission is amending its regulations in this interim rule while, at the same time, seeking comments on the change. The Commission will issue a final rule in this proceeding, after reviewing these comments.

DATES: The effective date of this interim rule is June 8, 1989. Comments must be filed on or before July 24, 1989.

ADDRESS: An original and 14 copies of all written comments on this interim rule must be filed in the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426 and should refer to Docket No. RM89-13-000 on the outside of the envelope and on all documents submitted to the Commission.

FOR FURTHER INFORMATION CONTACT: Julia Lake White, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, (202) 357-8530.

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the **Federal Register**, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours in Room 1000 at the Commission's Headquarters, 825 North Capitol Street, NE., Washington, DC 20426.

The Commission Issuance Posting System (CIPS), an electronic bulletin board service, provides access to the texts of formal documents issued by the Commission. CIPS is available at no charge to the user and may be accessed using a personal computer with a modem by dialing (202) 357-8997. To access CIPS, set your communications software to use 300, 1200 or 2400 baud, full duplex, no parity, 8 data bits, and 1 stop bit. The full text of this interim rule will be available on CIPS for 30 days from the date of issuance. The complete text on diskette in WordPerfect format may also be purchased from the Commission's copy contractor, La Dorn Systems Corporation, also located in Room 1000, 825 North Capitol Street, NE., Washington, DC 20426.

Before Commissioner: Martha O. Hesse, Chairman; Charles G. Stalon, Charles A. Trabandt, Elizabeth Anne Moler and Jerry J. Langdon.

Revision of Formula for Computing Monthly Carrying Charges in PGA Filings.

I. Introduction

The Federal Energy Regulatory Commission (Commission) is issuing an interim rule revising the formula used to compute the monthly carrying charge rate for Account No. 191 carrying charges required in the Commission's Purchased Gas Adjustment (PGA) filings.[1] Under the revised regulations, the daily interest rate to be determined in the second step of the carrying charges formula in § 154.305(h)(4) of the Commission's regulations must be expressed to the nearest one ten-thousandth of one percent (*i.e.*, rounded to the sixth decimal place). The Commission's regulations currently

[1] *See* 18 CFR 154.305(h) (1988).

require the daily interest rate to be expressed to the nearest one one-hundredth of one percent (*i.e.*, rounded to the fourth decimal place). The Commission is amending its regulations in this interim rule while, at the same time, seeking comments on the change. After reviewing the comments, the Commission will issue a final rule in this proceeding.

II. Background

The Commission permits natural gas pipeline companies to recover changes in the cost of purchased natural gas through a purchased gas adjustment clause proceeding as an alternative to recovering these costs in a general rate proceeding pursuant to section 4 of the Natural Gas Act.[2]

The Commission's current PGA regulations [3] require a natural gas pipeline company to determine its overrecovered or underrecovered purchased gas costs each month and to either credit or debit these amounts to Account No. 191 of the Uniform System of Accounts.[4] Additionally, the Commission's regulations require a pipeline to compute carrying charges on the pipeline's Account No. 191 balances.[5] According to the Commission's regulations, a pipeline must compute the monthly carrying charge by multiplying the carrying charge rate specified in § 154.305(h)(4) by the carrying charge base specified in § 154.305(h)(3). The pipeline's carrying charge base is calculated for the refunds, revenue credits or billing adjustments subaccount and a separate carrying charge base is calculated for all other subaccounts in Account No. 191. Under § 154.305(h)(4), the pipeline's monthly carrying charge rate is calculated by dividing the annualized quarterly rate provided for in § 154.67(c)(2)(iii)(A) of the Commission's regulations by the number of days in the year, and then multiplying the result by the number of days in the applicable month.

The Commission's current PGA regulations specifically require that each result in the formula for determining the carrying charge rate must be expressed to the nearest one one-hundredth of one percent, *i.e.*, rounded to the fourth decimal place.[6] The Commission added this specific requirement in its current PGA regulations to ensure that pipelines compute their interest rate factors for carrying charges in the same manner.[7]

Recently, the Commission has granted several pipelines a limited waiver of the carrying charges formula in § 154.305(h)(4) to permit them to express the daily interest rate calculated under § 154.305(h)(4)(ii), the second step of the carrying charges formula, to the nearest one ten-thousandth of one percent.[8] The Commission granted these waivers because a Commission staff study found that expressing the daily interest rate in the second step of the carrying charges formula to the nearest one one-hundredth of one percent creates variances between the de facto annual rate used to compute carrying charges on a pipeline's Account No. 191 balance and the annual rate used to calculate refunds for a general NGA section 4 rate proceeding according to § 154.67(c)(2)(iii)(A) of the Commission's regulations.[9]

III. Discussion

Commission staff studied the difference between the de facto annual interest rates obtained by using four different rounding factors for the second step of the carrying charges formula in § 154.305(h)(4) and the original annual interest rate calculated on refunds in accordance with § 154.67(c)(2)(iii)(A), while still rounding the final step in the carrying charges formula, the monthly interest rate, to one one-hundredth of one percent, *i.e.*, four decimal places.[10] The Commission's study shows that calculations expressing the daily interest rate in the second step of the carrying charges formula in § 154.305(h)(4) to the sixth, eighth or float [11] decimal places does not create any significant variance with the annual rate used to calculate refunds in § 154.67(c)(2)(iii)(A) of the Commission's regulations, but that expressing it to the fourth decimal place does create a significant variance. In fact, the calculations for sixth, eighth or float decimal places result in similar final monthly interest rates.

Commission staff also prepared a worksheet highlighting the percentage of distortions or variances between the de facto annual rate used in the second step of the carrying charges formula on the Account No. 191 balance and the annual rate calculated for refunds in a pipeline's latest NGA section 4 rate filing pursuant to § 154.67(c)(2)(iii)(A) of the Commission's regulations.[12]

The distortion in the final carrying charge interest rate on a pipeline's Account No. 191 balance violates the principle underlying the PGA regulations that the carrying charges on Account No. 191 must equal the current interest rate on pipeline refunds prescribed by the Commission in § 154.67(c)(2)(iii)(A) of its regulations. The PGA regulations are designed to ensure that the piplelines and their customers are in the same financial position that they would have been in if there had been no delay in the recovery of the overcharges or undercharges held in a pipeline's Account No. 191.[13]

The Commission is revising § 154.305(h)(4)(ii) of its regulations to require that the daily interest rate must be expressed to the nearest one ten-thousandth of one percent (*i.e.*, rounded to the sixth decimal place). This will substantially eliminate the distortions in the calculations, so as to ensure that there is no significant variation between the interest rate determined under § 154.67(c)(2)(iii)(A) for refunds in a pipeline's NGA section 4 general rate proceeding and the carrying charge rate determined under § 154.305(h)(4) for Account No. 191 balances in a pipeline's PGA filing. Thus, the carrying charges

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[2] 15 U.S.C. 717(c) (1982). The procedures for recovering purchased gas costs in an NGA section 4 general rate proceedings are provided in § 154.63 of the Commission's regulations. *See* 18 CFR 154.63 (1988).

[3] Revisions to the Purchased Gas Adjustment Regulations, Order No. 483, 52 FR 43,854 (Nov. 17, 1987); III FERC Stats. and Regs. ¶ 30,778 (Nov. 10, 1987); 52 FR 48,407 (Dec. 22, 1987); III FERC Stats. and Regs. ¶ 30,785 (Dec. 16, 1987); 53 FR 3364 (Feb. 5, 1988); III FERC Stats and Regs. ¶ 30,796 (Jan. 29, 1988); *reh'g.* 53 FR 7495 (Mar. 9, 1988), III FERC Stats. and Regs. ¶ 30,798 (Mar. 2, 1988); 53 FR 11,991 (Apr. 12, 1988), III FERC Stats. and Regs. ¶ 30,802 (Apr. 6, 1988); 53 FR 12,676 (Apr. 18, 1988); III FERC Stats. and Regs. ¶ 30,803 (Apr. 12, 1988); 53 FR 13,254 (Apr. 22, 1988) III FERC Stats. and Regs. ¶ 30,806 (Apr. 18, 1988).

[4] 18 CFR Part 201 (1988).

[5] 18 CFR 154.305(h) (1988).

[6] *See* 18 CFR 154.305(h)(4) (ii) and (iii) (1988).

[7] Prior to Order No. 483 establishing the Commission's current PGA regulations, pipelines would start with the average prime rate for each calendar quarter and then use their own computation to arrive at the monthly interest rate factor. For example, a pipeline might take the annual quarterly interest rate and divide it by either twelve or 365 to determine a daily interest rate. The pipeline would then round the daily interest rate to whatever decimal place the pipeline preferred. Finally, the pipeline would multiply the daily interest rate by the number of days in the month, expressed to one one-hundredth of one percent, to arrive at the monthly interest rate.

[8] Algonquin Gas Transmission Co., Docket No. TA89-20-001, 46 FERC ¶ 61,397 at 62,268 (Mar. 23, 1989); Alabama-Tennessee Natural Gas Company, Docket No. TA89-11-000, 46 FERC ¶ 61,429 (Mar. 31, 1989).

[9] 18 CFR 154.67(c)(2)(iii)(A) (1988).

[10] The Commission's study is attached as Appendix A.

[11] *I.e.*, using no rounding factor at all.

[12] *See* Appendix B.

[13] *See* Modification of Purchased Gas Cost Adjustment Clause Regulations, Order No. 13, 43 F.R. 50,167 (Oct. 27, 1978), FERC Stats. & Regs. [Regulations Preambles 1977–1981] ¶ 30,020A (1978); and Natural Gas Policy and Procedures; Final Regulation and Request for Comments, Order No. 47, 44 F.R. 53,493 (Sept. 14, 1979), FERC Stats. & Regs. [Regulations Preambles 1977–1981] ¶ 30,083 (Sept. 10, 1979).

calculated in pipelines' PGA filings will more accurately reflect the financial position of the pipelines and their customers for overrecovery and underrecovery of certain accounts.

IV. Administrative Findings and Effective Date

The Commission is revising the carrying charge rate computation formula by amending § 154.305(h)(4)(ii) in an interim rule prior to providing a notice and obtaining comments, as generallly required by the Administrative Procedure Act (APA) for any rulemaking proceeding.[14] In addition to the reasons set forth above, the Commission is invoking exceptions to this requirement in order to provide an immediate generic remedy to pipelines, and to ensure uniform treatment of all pipelines at the earliest date possible. It also will render unnecessary the filing of further petitions by pipelines for limited waiver of the carrying charges formula in § 154.305(h)(4).

The Commission, therefore, finds good cause to issue this rule without prior notice and comment. The Commission believes the public interest is best served in this instance with the promulgation of an interim rule consistent with the Commission's underlying principle that the carrying charge rate on Account No. 191 balances must accurately represent the interest rate calculated for refunds in pipelines' NGA section 4 general rate filings.

This interim rule is effective June 8, 1989.

V. Regulatory Flexibility Act Certification

The Regulatory Flexibility Act generally requires a description and analysis of rules that will have a significant economic impact on a substantial number of small entities.[15] The pipelines affected by this rule are too large to be considered "small entities" within the meaning of the Act.[16] Accordingly, the Commission certifies that this rule will not have a significant economic impact on a substantial number of small entities.

VI. National Environmental Policy Act Statement

Commission regulations require that an environmental assessment or an environmental impact statement must be prepared for any Commission action that may have a significant adverse effect on the human environment.[17] The Commission has categorically excluded certain actions from this requirement as not having a significant effect on the human environment.[18] This rule involves the review of natural gas rate filings and establishment of rates for the transportation and sale of natural gas under sections 4 and 5 of the Natural Gas Act. Pursuant to § 380.4(a)(25) of the Commission's regulations, the establishment of such rates is categorically excluded from these statements.[19] The Commission, therefore, will not prepare an environmental assessment or an environmental impact statement for this rule.

VII. Paperwork Reduction Act Statement

The Paperwork Reduction Act[20] and the Office of Management and Budget (OMB)[21] require that OMB approve certain information collection requirements imposed by agency rule. This final rule does not change the information collection requirements approved by OMB. The rule simply changes the decimal place that must be used in expressing the daily interest rate in § 154.305(h)(4)(ii), the second step of the carrying charges formula in § 154.305(h)(4) of the Commission's regulations. The Commission, therefore, is not required to notify OMB of this technical change.

VIII. Public Comment Procedures

Interested persons are invited to submit written comments on the interim rule to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20526. Comments should refer to Docket No. RM89–13–000 on the outside of the envelope and on all documents submitted to the Commission. Fourteen copies should be submitted with the original.

Comments must be filed on or before July 24, 1989. Copies of the written comments may be obtained from the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, DC 20426. Comments are available for public inspection during business hours at the same location. Also, copies of comments will be available for purchase.

List of Subjects in 18 CFR Part 154

Alaska, Natural gas, Pipelines, Reporting and recordkeeping requirements.

In consideration of the foregoing, the Commission amends Part 154, Chapter I, Title 18 of the Code of Federal Regulations as set forth below.

By the Commission.

Linwood A. Watson, Jr.,

Acting Secretary.

PART 154—RATE SCHEDULE AND TARIFFS

1. The authority citation for Part 154 continues to read as follows:

Authority: Natural Gas Act, 5 U.S.C. 717–717w (1982); Department of Energy Organization Act, 42 U.S. 7102–7352 (1982); E.O. 12009, 3 CFR 1978 Comp., p. 142; Independent Offices Appropriations Act, 31 U.S.C. 9701 (1982).

2. In § 154.305, paragraph (h)(4)(ii) is revised to read as follows:

§ 154.305 Annual PGA filing.

* * * * *

(h) *Carrying charges.* * * *

(4) *Carrying charge rate.* * * *

(ii) Dividing the annual rate by 365 or 366, if a leap year, to compute a daily interest rate, expressed to the nearest one ten-thousandth of one percent; and

* * * * *

Note: These appendices will not be published in the Code of Federal Regulations

Appendix A—Study of Decimal Place Distortion in PGA Carrying Charges Computations

The following charts show the results of using different rounding factors or no rounding factor at all, *i.e.*, allowing the decimal place to float, to compute the daily interest rate and the resulting monthly interest rates for PGA carrying charges pursuant to § 154.305(h)(4) (ii) and (iii) of the Commission's regulations. The Summary Sheets compare the results of using four different rounding factors for each month in the study. As can be seen from the Summary Sheets, the calculations using six, eight or floating decimal places result in like monthly interest rates.

Column (1) on the Summary Sheets gives the decimal place that was used for the second step of the monthly interest rate. The working papers which support these Summary Sheets and from which these figures are taken appear in Column (2). Likewise, the Line Number where the figure

[14] 5 U.S.C. 553 (b) and (c) (1982).

[15] 5 U.S.C. 601–612 (1982).

[16] The act defines a "small entity" as a small business, a small not-for-profit enterprise or a small governmental jurisdiction. 5 U.S.C. 601(b) (1982). A "small business" is defined by reference to section 3 of the Small Business Act, as an enterprise which is "independently owned and operated and which is not dominant in its field of operation." 5 U.S.C. 6.32(a) (1982).

[17] Regulations Implementing National Environmental Policy Act, 52 F.R. 47,897 (Dec. 17, 1987); III FERC Stats. & Regs. ¶ 30,783 (Dec. 10, 1987).

[18] 18 CFR 380.4 (1989).

[19] 18 CFR 380.4(a)(25) (1989).

[20] 44 U.S.C. 3501–3520 (1982).

[21] 5 CFR 1320.13 (1989).

can be found is given in Column (3). Columns (4) (5) and (6) show the annual interest rate, the monthly interest rate and the de facto (effective) rate. Column (4) shows the monthly effective rate as computed on the various backup examples. Column (5) shows the effective annual rate obtained by reversing the calculations. That is, each monthly carrying charge factor calculated by the divers methods is annualized. As may be seen by the example for the month of January, on Line One, when four decimal places are used pursuant to § 154.305, the annual rate is 10.98 percent even though the published refund rate is 12 percent.

Likewise for April, the interest rate calculation using four decimal places again results in an annual rate of 10.98 percent instead of the 9.39 percent resulting from the calculations which are expressed to the six and eight decimal places as well as the float (not rounded at all). The results in the summaries for July and November follow suit.

The second type of example shows the computations behind the interest rates in the Summary.

The amounts in Example A are computed using a rounding factor of four, i.e., in accordance with Order No. 483, the daily interest rate is expressed to four decimal places in the step to determine the daily interest rate for the computation to determine the monthly interest rate to be used to calculate carrying charges. As is shown, calculating the daily rate rounded to one one-hundredth of one percent results in an annual interest rate of 10.98 percent in three of the four months for which the calculation occurred.

The amounts in Example B are computed using a rounding factor of six, i.e., the quotient is rounded to six decimal places in the second step to determine the daily interest rate for the computation to determine the monthly interest rate.

The amounts in Example C are computed using a rounding factor of eight, i.e., the quotient is rounded to eight decimal places in the second step to determine the monthly interest rate.

The amounts in Example D are computed using a floating decimal factor, i.e., the quotient is not rounded in the second step to determine the daily interest rate for the computation to determine the monthly interest rate.

EXAMPLE A.—CARRYING CHARGE RATES PER § 154.305(h)

Line No.	Month	(1) Annual rate	(2) No. days in year	(3) Daily rate (1)/(2)	(4) No. days in month	(5) Monthly rate (3)(4)	(6) Check (5)/(4)*(2)	(7) Difference (1)-(6)
1	Jan	0.12	366	0.0003	31	0.0093	0.1098	0.0102
2	Apr	0.0934	366	0.0003	30	0.009	0.1098	−0.0164
3	Jul	0.1054	366	0.0003	31	0.0093	0.1098	−0.0044
4	Nov	0.1428	366	0.0004	30	0.012	0.1464	−0.0036

EXAMPLE B.—CARRYING CHARGE COMPUTATIONS ROUNDED TO SIX DECIMAL PLACES

Line No.	Month	(1) Annual rate	(2) No. days in year	(3) Daily rate (1)/(2)	(4) No. days in month	(5) Monthly rate (3)(4)	(6) Check (5)/(4)*(2)	(7) Difference (1)-(6)
1	Jan	0.12	366	0.000328	31	0.0102	0.120426	−0.000426
2	Apr	0.0934	366	0.000255	30	0.0077	0.09394	−0.00054
3	Jul	0.1054	366	0.000288	31	0.0089	0.105077	0.000323
4	Nov	0.1428	366	0.00039	30	0.0117	0.14274	0.00006

EXAMPLE C.—CARRYING CHARGE COMPUTATIONS ROUNDED TO SIX DECIMAL PLACES

Line No.	Month	(1) Annual rate	(2) No. days in year	(3) Daily rate (1)/(2)	(4) No. days in month	(5) Monthly rate (3)(4)	(6) Check (5)/(4)*(2)	(7) Difference (1)-(6)
1	Jan	0.12	366	0.00032787	31	0.0102	0.12042581	−0.00042581
2	Apr	0.0934	366	0.00025519	30	0.0077	0.09394	−0.00054
3	Jul	0.1054	366	0.00028798	31	0.0089	0.10507742	0.00032258
4	Nov	0.1428	366	0.00039016	30	0.0117	0.14274	0.00006

EXAMPLE D.—CARRYING CHARGE COMPUTATIONS WITH FLOATING DECIMAL PLACES*

Line No.	Month	(1) Annual rate	(2) No. days in year	(3) Daily rate (1)/(2)	(4) No. days in month	(5) Monthly rate (3)(4)	(6) Check (5)/(4)*(2)	(7) Difference (1)-(6)
1	Jan	0.12	366	0.000327868	31	0.0102	0.1204258065	−0.0004258065
2	Apr	0.0934	366	0.00025519	30	0.0077	0.09394	−0.00054
3	Jul	0.1054	366	0.00028798	31	0.0089	0.105077	0.000323
4	Nov	0.1428	366	0.00039016	30	0.0117	0.14274	0.00006

* For display purposes, the number of decimal places is limited to 10 places.

SUMMARY SHEET I.—INTEREST RATE COMPUTATION COMPARISON

Line No. and carrying charge rate computation per	From example	Line number	Refund interest rate from col. (1) (percent)	Monthly rate from col. (5)	Effective annual rate from col. (6) (percent)
(1)	(2)	(3)	(4)	(5)	(6)
January					
1 Sec. 154.305	A	1	12.00	0.0093	10.98
2 Six Dec	B	1	12.00	0.0102	12.04
3 Eight Dec	C	1	12.00	0.0102	12.04
4 Float	D	1	12.00	0.0102	12.04
April					
1 Sec. 154.305	A	2	9.34	0.009	10.98
2 Six Dec	B	2	9.34	0.0077	9.39
3 Eight Dec	C	2	9.34	0.0077	9.39
4 Float	D	2	9.34	0.0077	9.39

SUMMARY SHEET II.—INTEREST RATE COMPUTATION COMPARISON

Line No. and carrying charge rate computation per	From example	Line number	Refund interest rate from col. (1) (percent)	Monthly rate from col. (5)	Effective annual rate from col. (6) (percent)
(1)	(2)	(3)	(4)	(5)	(6)
July					
1 Sec. 154.305	A	3	10.54	0.0093	10.98
2 Six Dec	B	3	10.54	0.0089	10.51
3 Eight Dec	C	3	10.54	0.0089	10.51
4 Float	D	3	10.54	0.0089	10.51
November					
1 Sec. 154.305	A	4	14.28	0.012	14.64
2 Six Dec	B	4	14.28	0.0117	14.27
3 Eight Dec	C	4	14.28	0.0117	14.27
4 Float	D	4	14.28	0.0117	14.27

Appendix B

This work sheet highlights the percentage of distortions. The percentage of error that occurs for an annual interest rate of 5.48 percent is 33.33 percent and the percentage of error for an annual interest rate of 9.12 percent is 20 percent.

An example of the distortion caused by rounding the intermediate step by four places.

	Interest Rate per 154.67 (percent)	Daily Rate Col. (a)/365	De Facto Annual Rate Col (b) x 365 (percent)
	(a)	(b)	(c)
Calculation using four decimal places	5.48	0.0002	7.30
Calculation using six, eight or "float" decimal places	5.48	0.00015	5.48
Difference due to rounding			1.83
Percentage of error			33.33
Calculation using four decimal places	9.12	0.0002	7.30
Calculation using six, eight or "float" decimal places	9.12	0.00025	9.13
Difference due to rounding			−1.82
Percentage of error			−20.00

[FR Doc. 89–14062 Filed 6–13–89; 8:45 am]
BILLING CODE 6717–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 199

[DoD 6010.8-R, Amdt. No. 22]

Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Administrative Remedies for Fraud, Abuse, and Conflict of Interest

AGENCY: Office of the Secretary, DoD.

ACTION: Final rule.

SUMMARY: This final rule amends Part 199 of Title 32, the regulation which implements CHAMPUS, by adding a new section that sets forth administrative remedies, including exclusion, suspension, and termination of CHAMPUS providers for fraud, abuse, or conflict of interest. The new section is designated as § 199.9 which was previously reserved. This amendment strengthens the Program's remedies when providers or beneficiaries violate laws pertaining to fraud or false claims. This amendment also strengthens the Program's remedies when providers or beneficiaries violate regulation provisions concerning Program fraud or abuse. The new section is responsive to the Administration's and DoD's concern with controlling and reducing fraud and abuse. The end result will be to minimize poor quality care and health risks for CHAMPUS beneficiaries and to reduce unnecessary costs to the Government.

EFFECTIVE DATE: July 14, 1989. For an administrative remedy on or after this date, CHAMPUS will follow the provisions of this final rule.

ADDRESS: Office of Civilian Health and Medical Program of the Uniformed Services (OCHAMPUS), Office of Program Development, Aurora, CO 80045-6900.

For copies of the **Federal Register** containing this notice, contact the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 783-3238.

The charge for the **Federal Register** is $1.50 for each issue payable by check or money order to the Superintendent of Documents.

FOR FURTHER INFORMATION CONTACT: Tariq S. Shahid, Office of Program Development, OCHAMPUS, telephone (303) 361-3587.

To obtain copies of this document, see the "**ADDRESS**" section above.

SUPPLEMENTARY INFORMATION: In FR Doc. 77-7834, appearing in the **Federal Register** on April 4, 1977 (42 FR 17972), the Office of the Secretary of Defense published its regulation, DoD 6010.8-R, "Implementation of the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS)," as Part 199 of this title. Since 32 CFR Part 199 (DoD 6010.8-R) was reissued in the **Federal Register** on July 1, 1986 (51 FR 24008), with a new format, all references to section numbers in this final rule are in accordance with the new format.

I. Background/Analysis

Section 199.6(a)(4)(i) provided for denial of CHAMPUS payments for services of a provider found to have engaged in fraudulent activities against the Program and for disqualification of the provider from participation in CHAMPUS. In regard to unnecessary and poor quality care, the regulation provided for denial of CHAMPUS payments for services or supplies that are not medically necessary or that fail to meet professionally recognized standards for health care, but was silent on the administrative authority to exclude providers from the program for such abusive practices.

Section 199.6(a)(4)(ii) authorized denial of CHAMPUS reimbursements for services of any provider determined by the Secretary of the Department of Health and Human Services (DHHS) to have furnished supplies or services which were substantially in excess of the needs of individuals, or which were harmful to individuals, or which were of a grossly inferior quality, and where the Secretary, on the basis of such a determination, terminated the agreement of that provider for purposes of reimbursement under the Medicare and Medicaid programs. OCHAMPUS has remained dependent upon the DHHS determination as the basis for excluding those providers who engage in abusive practices. This weakness in the regulation has a potential for abuse under CHAMPUS since a provider could continue rendering poor quality or unnecessary services to beneficiaries of CHAMPUS while avoiding the termination by DHHS by not doing so under the Medicare and Medicaid programs. Also, CHAMPUS can be abused by a provider who could have avoided the termination by DHHS simply by electing not to participate in Medicare and Medicaid programs.

We believe that once a provider has been found to have a pattern of ordering or furnishing services or supplies for a CHAMPUS beneficiary that are medically unnecessary, inferior, or harmful, CHAMPUS should be able to exclude such a provider from the Program without having to rely on the DHHS. Such CHAMPUS authority is needed to eliminate poor quality providers from the Program.

We believe the regulation should define fraud and abuse under the CHAMPUS and strengthen its authority. The criminal statutes defining fraud and abuse are enforced in courts of law. This final rule provides for provider exclusion when convictions or judgments involving fraud are entered in a court of law. In addition, it establishes what is fraud or abuse under the CHAMPUS by providing administrative definitions separate from any definitions found in criminal codes.

This amendment adds a new section in Part 199 that prescribes necessary definitions, more clearly expresses the administrative authority, and provides a range of administrative responses and remedies, including exclusion, suspension, and termination from the program for health care providers for fraud, abuse, or conflict of interest. Also, it authorizes CHAMPUS to exclude those providers who are sanctioned by other health care programs.

This final rule provides that for any CHAMPUS determination to exclude, suspend, or terminate a provider, the provider be given an opportunity to submit documentary evidence and written argument against the proposed adverse action or to submit a written request to present evidence or argument orally to a CHAMPUS official. It clarifies administrative appeal rights, provides criteria for reinstatement of a sanctioned provider, and provides other administrative guidelines.

Conforming changes to other sections of Part 199 have been made to insure consistency with the provisions of the new section.

This amendment is intended to facilitate administrative elimination of poor quality health care providers from CHAMPUS, protect the beneficiaries, deter program violators, and control fraud and abuse. The end result will be to minimize poor quality care and health risks for CHAMPUS beneficiaries and to reduce unnecessary costs to the Government. The strengthened regulation will allow more aggressive and more timely pursuit of suspected instances of fraud and abuse, and has a potential for positive impact on program costs. The direct value to CHAMPUS would include the fraud and abuse deterrent effect of the stepped-up actions against suspected and documented violators.

II. Proposed Rule and Comments

In FR Doc. 86-1443 appearing in the **Federal Register** on January 24, 1986, (51 FR 3210), the Office of the Secretary of

Defense published for public comment a proposed amendment regarding exclusion, suspension, and termination of CHAMPUS providers for fraud, abuse, and conflict of interest. We received comments from several government agencies, two national associations related to mental health institutions, and two law firms that represent mental health institutions. We express our appreciation to all the commenters for the time they took in providing their comments. The following summarizes the comments, suggestions, and the actions taken.

First, after additional review, we have concluded that the provisions defining fraud in the proposed rule appear to include a more rigorous standard for establishing fraud than is required by applicable case law. In civil cases involving false claims, it has generally been held that proof of intent is unnecessary, so long as the individual committing the fraudulent act knew (or with appropriate inquiry, would have known) that the claim was false. For example, see *United States* v. *Hughes*, 585 F.2d 284 (7th Cir. 1978) and *United States* v. *Cooperative Grain and Supply Co.*, 474 F.2d 47 (8th Cir. 1973). In addition, intent is not required in the majority of judicial circuits for proof of fraud under the Federal Civil False Claims Act (31 U.S.C. 3729) (a practice expected to be followed in enforcement of the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801) as it applies to CHAMPUS) or the Criminal False Claims or False Statements Acts (18 U.S.C. 287, 1001). Accordingly, we have eliminated the requirement to prove intent for fraud and have made necessary revisions in § 199.2(b) of this final rule.

Three commenters raised concerns regarding the definition of abuse. Essentially, two of them commented that the definition is too vague and broad and suggested that without provider pre-termination hearings, a more precise standard for abuse is needed. The third commenter suggested the regulations should at least require that OCHAMPUS make a finding that the participants in the alleged abuse knew or should have known either (1) that the alleged practice would result in excessive cost to CHAMPUS; (2) that the services or supplies were not medically necessary; or (3) the services or care failed to meet professionally recognized standards. These commenters suggested that isolated instances of providing medically unnecessary services or waiving patient cost-shares should not be construed as abuse.

The definition of abuse is reasonably similar to definitions of abuse established under other health care programs, including the definition used under Medicare. In addition, it is reasonable to expect providers of health care to be familiar with, and comply with, the recognized standards of care established for their profession; to be familiar with the requirements for being an authorized CHAMPUS provider and the criteria for CHAMPUS coverage of services and supplies furnished; and to be cognizant of acceptable sound fiscal business and medical practices or the reasonable financial consequences to CHAMPUS and CHAMPUS beneficiaries of the providers' practices. In view of these expectations, we do not believe the definition of abuse to be too vague or broad. In addition, specific examples of fraud and abuse were set forth in the amendment to provide further understanding of the types of practices which are considered abuse under CHAMPUS. Some revisions have been made in the examples of abuse in § 199.9. Therefore, we do not believe that OCHAMPUS should be required to find that a provider furnishing medically unnecessary services that result in excessive costs did so knowingly. Such a requirement could create a loophole permitting incompetent providers who are not knowledgeable of professional standards to continue rendering poor quality care to our beneficiaries. For these reasons we cannot add such a requirement.

It was not our intent that single, isolated incidents of abuse would, generally, result in the initiation of administrative remedies under this amendment. Unless a single, isolated incident is considered gross and flagrant, an improper pattern of practice will normally be the basis of a finding of abuse under CHAMPUS. We are clarifying this in the note that follows the definition of abuse in § 199.2(b).

We also have added a new provision in § 199.9(h)(2)(i)(D) that will, generally, give a provider an opportunity for a pre-sanction meeting to present evidence or argument to an OCHAMPUS official.

One commenter pointed out that the definition of abuse used in the proposed regulations adopts concepts from the Medicare program but does not provide for peer review organizations (PROs). The commenter noted that submitting claims for services that are not medically necessary is an abuse and this raises problems for residential treatment centers in that the distinction between what is and what is not medically necessary is open to more dispute in psychiatry than for treatment in acute care facilities. This commenter raised concerns that these regulations would grant CHAMPUS extra powers over clinical issues.

OCHAMPUS will be utilizing Medicare PROs for review of inpatient hospital care paid for through the diagnosis related group (DRG) method. For this reason some clarifications have been included in this amendment to increase the similarities in certain selected CHAMPUS and Medicare provisions. For example, the CHAMPUS definition of appropriate medical care has been clarified by specific reference to services being economically furnished. This is considered only a clarification in that application of the CHAMPUS definition has always included the concept of economically furnished services.

Aside from the utilization of Medicare PROs, an effective CHAMPUS peer review mechanism currently exists. This involves medical reviewers of the CHAMPUS contractors and reviewers from national professional organizations. On medical issues, CHAMPUS relies on scientific studies, medical literature, national professional assessments, the general medical community and other appropriate sources for information. Providers and patient records are reviewed by professionals who are specialized in mental health care and, with adequate resources available, we do not believe that medical necessity determinations in such cases would be difficult. Further, with the submission of claims or appeals, providers are given the opportunity to submit any documentary evidence in support of their position. In addition, as noted above, a case of abuse will normally require a pattern of providing unnecessary services.

With reference to the records related requirements in § 199.2(b), § 199.9(b)(6), and § 199.10(a)(3), one commenter suggested that an adequate account of the importance of the physician-patient and psychotherapist-patient privileges be taken. The commenter suggested that OCHAMPUS should provide for protection of the confidentiality of records within OCHAMPUS.

OCHAMPUS must have adequate access to records in order to conduct audits and make determinations. Beneficiaries and providers do not have to provide medical records to CHAMPUS or its contractors; however, failure to provide access to medical records can result in the claim (or claims) being denied CHAMPUS cost-sharing. The burden is on the beneficiary and provider to establish entitlement to CHAMPUS cost-sharing.

OCHAMPUS procedures do account for privacy and confidentiality of records, and CHAMPUS records are maintained in accordance with the requirements of the Privacy Act.

With reference to the definitions of adequate medical documentation in § 199.2(b), a commenter suggested that no provider should be required to comply with "CHAMPUS issuances" unless notice of the issuance was sent to the provider.

In clarification, "CHAMPUS issuances" meant the CHAMPUS Policy Manual and the CHAMPUS operations manuals which provide interpretation of the CHAMPUS regulation, clarifying policy, and implementing procedures. However, in this final rule we have made some minor revisions in the definitions of adequate medical documentation in § 199.2(b) and have deleted the reference to "CHAMPUS issuances." In general, the source of this definition is the Joint Commission on Accreditation of Healthcare Organizations record keeping requirements, prior final decisions of the Assistant Secretary of Defense (Health Affairs), and the CHAMPUS regulation. Failure to produce adequate medical documentation of the care provided is a basis for denying CHAMPUS cost-sharing.

Several comments were received regarding the mandatory and discretionary periods of sanction set forth in the proposed rule. In order to simplify the sanction procedures and remedies, the pertinent subsections have been rewritten to consolidate the procedures and to eliminate mandatory sanction periods in most cases. The only mandatory sanction periods which remain are those which are adopted from sanctions imposed by other agencies of the federal government, state, or local licensing authority. Therefore, except for cases in which the CHAMPUS sanction is imposed *solely* on the basis of sanctions by other agencies, the period of CHAMPUS sanction may be appealed under CHAMPUS.

Two commenters raised concerns that the regulations defining conflict of interest in § 199.2(b) and § 199.9(d) are too broad. One of them suggested that an active duty member or a civilian Government employee should be deemed to have a conflict of interest in making a referral or influencing a referral only when they or a close relative have a financial interest in the referral. The other commenter suggested that the revisions be made to include language requiring personal gain or appearance of impropriety in influencing referrals to others. A third commenter suggested that we also consider those situations as conflict of interest where service members and Government employees have the apparent opportunity to exert influence on the referrals.

The broader definition was intended to include all those situations as conflict of interest where an authorized CHAMPUS provider employs an active duty Uniformed Service member or civilian Government employee who has the opportunity to exert influence on the referral of CHAMPUS beneficiaries to the employing provider. However, we have made necessary revisions in the conflict of interest provisions in § 199.2(b) and § 199.9(d) where we have maintained the regulatory intent and have adopted some of the suggestions of the commenters.

Although no public comments were received on the "dual compensation" provisions of the proposed rule, we have recently received comments that the CHAMPUS regulation may be overly broad in its application of the dual compensation law to all civilian employees of the Government. We recognize that there are tests established by case law and decisions of the Comptroller General for determining whether the dual compensation provisions apply in each individual case. However, in administering a program in which millions of claims are processed annually, it is impracticable to apply the established tests to each individual claim to avoid expending appropriated funds in violation of law. Rather, it is necessary to have an easily administered policy which can be used in an automated claims processing system to exclude all cases in which a provider may be in violation of the law. In addition, all providers who fall within the general category covered by the "dual compensation" provisions (i.e., civilian employees of the Government) are subject to Government rules and policies regarding "conflicts of interest." Such rules and policies prohibit not only actual conflict of interest situations but also situations in which the appearance of conflict of interest may exist. Again, it is impossible to scrutinize each individual claim to ensure that no possible violation of the rules and policies regarding conflict of interest occur when adjudicating millions of claims each year in a highly automated claims processing system. The fact that an individual provider may not be able to include CHAMPUS beneficiaries within his or her medical practice is not a primary consideration and does not outweigh the government's interests in enforcing laws and policies intended to maintain the public's confidence in the conduct of the Government and its employees.

The reason for the broad application of the dual compensation provisions to all Government employees under CHAMPUS, then, is simply one of administrative efficiency following a balancing of the interests involved. Considering that OCHAMPUS is faced with the adjudication of millions of health care claims each year and given the high degree of freedom among providers of health care to enter into or change their status of employment or associations of practice on a daily basis, it is deemed administratively impossible to apply the established tests to *each* provider on *each* claim to avoid expending appropriated funds in violation of law. The problem is further complicated given the numerous interagency arrangements (for example, resource sharing arrangements between the Department of Defense and the Veterans Administration in the provision of health care) and other unique arrangements existing at individual government health care facilities whereby civilian employees of one agency have *official duties and responsibilities* to provide health care to patients who are CHAMPUS eligible beneficiaries. This complication may be further aggravated if legislation currently pending before Congress is adopted and CHAMPUS funds are used directly to pay for care received by CHAMPUS beneficiaries in Veterans Administration facilities. Finally, in the administration of a health care program for Veterans Administration beneficiaries referred to as Civilian Health and Medical Program of the Veterans Administration (CHAMPVA), CHAMPUS authorized providers are deemed CHAMPVA providers. In view of the interagency arrangements between the Department of Defense and Veterans Administration, it is administratively impossible continually to screen providers who are civilian employees of the Veterans Administration to enforce the provisions of law and regulation relating to dual compensation and conflict of interest.

Therefore, we have changed § 199.6(a)(3) to clarify the agency's position on this issue. Specifically, to avoid the administrative nightmare of attempting to adjudicate each claim in relation to the multiple established tests, it is our position to exclude from authorization as a CHAMPUS provider (and, therefore, as a CHAMPVA provider) any active duty Uniformed Service member and any civilian employee of the Government. In

addition, a provider shall be required to certify on each CHAMPUS (CHAMPVA) claim that he/she is not an active duty Uniformed Service member or civilian employee of the Government. While an individual provider may be prevented from being an authorized CHAMPUS provider even though no dual compensation (or conflict of interest) situation exists in a specific claim, it is deemed essential for CHAMPUS to have an easily administered uniform rule which will ensure compliance with existing law and regulation.

It has also been suggested that we consider adopting regulatory provisions similar to authorities in use by the Department of Health and Human Services (DHHS) under section 1128(b) of the Social Security Act. Under section 1128(b), DHHS may exclude an entity from Medicare, and require the State agency to exclude the entity from Medicaid, whenever the entity is found to have a person, convicted of a Medicare or Medicaid related crime, with direct or indirect ownership or control interest of 5 percent or more of the entity. DHHS may also exclude an entity from both programs if such person is found to be an officer, director, agent or managing employee of such entity.

We have adopted the above suggestion by adding a note in § 199.9(f)(1)(i)(A) and the definitions of "entity" and "ownership or control interest" in § 199.2(b). While this provision allows CHAMPUS to suspend such entities, it also permits the entities to take proper action to divest themselves of any direct financial or controlling relationship with sanctioned individuals. The rule, then, provides reinstatement procedures for these entities.

With reference to § 199.9(f)(1)(iii), one commenter suggested that the provision be modified to apply only when the suspension from the other Federal program is for fraud or abuse as defined under CHAMPUS. We believe an authorized provider will be suspended from another Federal program based on a valid case of fraud or abuse, or lack of competence. It is the responsibility of a provider to comply with the requirements of the program under which he is seeking payment or reimbursement from the government; therefore, a violation of a requirement of any program of the government which rises to the level of fraud or abuse under that program's definition is a fraud against the government. It should not be necessary to establish that it would also have been a fraud or abuse under CHAMPUS.

Two commenters raised concerns that the proposed procedures for suspensions and exclusions fail to meet due process requirements. They suggested that before OCHAMPUS excludes or suspends a provider, that the provider be given an opportunity for a hearing. Protection of the Government's program and its beneficiaries is traditionally a proper purpose for administrative action; therefore, it is precisely the function of the Director, OCHAMPUS, to protect the program and its beneficiaries from the practices that led to the administrative action of exclusion or suspension. To permit a provider to continue as an authorized CHAMPUS provider pending administrative appeal proceedings would not provide the program or its beneficiaries protection from further potential wrongdoing of a provider preliminarily found to be unfit to participate under CHAMPUS or protection from a provider who has been found unfit or unqualified to be a CHAMPUS provider. In addition, allowing the provider to remain in an authorized status during administrative proceedings gives the provider every incentive to delay the proceedings by taking advantage of any opportunity to prolong the administrative appeal proceedings. The fact that an individual provider may not be able to include CHAMPUS beneficiaries within his or her medical practice following a preliminary determination that the provider is unfit to participate under CHAMPUS is not a primary consideration and does not outweigh the Government's interests in protecting the program and its beneficiaries. As noted earlier, however, we have added a new provision in § 199.9(h)(2)(i)(D) that will, generally, give a provider an opportunity for a pre-sanction meeting to present evidence or argument to an OCHAMPUS official. On balance of the interests involved, the informal pre-sanction meeting and the post-sanction hearing adequately address any due process requirements.

One commenter objected that the rules governing claims processing suspensions, (e.g., § 199.9(h)(1)), provide for no pre-termination notice or hearings. This commenter also suggested that the sections regarding administrative penalties based on either civil or criminal judgments concerning fraud should make provision for revocation of the penalties if the court judgments are reversed on appeal.

The provisions for temporary suspension of claims processing in § 199.9(h)(1) is not a final or formal agency action. No notice will be given if it is considered detrimental to the criminal, civil, or administrative investigation. As noted in the rule, a temporary suspension only delays the ultimate payment of appropriate claims; therefore, the decision to invoke the temporary suspension of claims processing is not an appealable issue under CHAMPUS.

With regard to the revocation of penalties, we have added a new provision as § 199.9(h)(4) that addresses reinstatement of a provider, including a provider whose conviction has been reversed or vacated on appeal. The previous § 199.9(e)(7) regarding the authority to enter into compromise settlements now applies to the entire § 199.9 and has been redesignated as § 199.9(1).

Finally, as specified in § 199.9(k), CHAMPUS also will notify DHHS of its exclusion, suspension, and termination actions.

III. Regulatory Procedures

Executive Order 12291 requires that a regulatory impact analysis be performed on any major rule. A "major rule" is defined as one which would:

Result in annual effect on the national economy of $100 million or more;

Result in a major increase in costs or prices for consumers, any industries, any government agencies, or any geographic regions; or

Have significant adverse effects on competition, employment, investment, productivity, innovation or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or import markets.

The Regulatory Flexibility Act requires that each federal agency prepare, and make available for public comment, a regulatory flexibility analysis when the agency issues regulations which would have significant impact on a substantial number of small entities.

Under both the Executive Order and the Regulatory Flexibility Act, such analyses must, when prepared, examine regulatory alternatives which minimize unnecessary burden or otherwise assure that regulations are cost-effective.

The changes set forth in this final rule will facilitate administrative elimination of poor quality health care providers from CHAMPUS, protect the beneficiaries, deter program violators, and control fraud and abuse. The end result will be to minimize poor quality care and health risks for CHAMPUS beneficiaries and to reduce unnecessary costs to the Government.

It is hereby 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. Also, it is not a "major rule" under Executive Order 12291.

List of Subjects in 32 CFR Part 199

Claims, Handicapped, Health insurance, Military personnel.

Accordingly, 32 CFR Part 199 is amended as follows:

PART 199—[AMENDED]

1. The authority citation for Part 199 continues to read as follows:

Authority: 10 U.S.C. 1079, 1086; 5 U.S.C. 301.

2. Section 199.2, paragraph (b) is amended by adding or revising, in alphabetical order, the definitions for "Abuse," "Adequate Medical Documentation, Medical Treatment Records," "Adequate Medical Documentation, Mental Health Records," (paragraph (iii) of "Appropriate Medical Care," "Conflict of Interest," "Conviction," "Dual Compensation," "Entity," "Fraud," "Item, Service, or Supply," "Ownership or Control Interest," "Provider Exclusion and Suspension," "Provider Termination," "Sanction," and "Suspension of Claims Processing," to read as follows:

§ 199.2 Definitions.

* * * * *

(b) * * *

Abuse. For the purposes of this Part, abuse is defined as any practice that is inconsistent with accepted sound fiscal, business, or professional practice which results in a CHAMPUS claim, unnecessary cost, or CHAMPUS payment for services or supplies that are: (1) Not within the concepts of medically necessary and appropriate care, as defined in this part, or (2) that fail to meet professionally recognized standards for health care providers. The term "abuse" includes deception or misrepresentation by a provider, or any person or entity acting on behalf of a provider in relation to a CHAMPUS claim.

Note: Unless a specific action is deemed gross and flagrant, a pattern of inappropriate practice will normally be required to find that abuse has occurred. Also, any practice or action that constitutes fraud, as defined by this part, would also be abuse.

* * * * *

Adequate Medical Documentation, Medical Treatment Records. Adequate medical documentation contains sufficient information to justify the diagnosis, the treatment plan, and the services and supplies furnished. Under CHAMPUS, it is required that adequate and sufficient clinical records be kept by the health care provider(s) to substantiate that specific care was actually and appropriately furnished, was medically necessary and appropriate (as defined by this part), and to identify the individual(s) who provided the care. All procedures billed must be documented in the records. In determining whether medical records are adequate, the records will be reviewed under the generally acceptable standards such as the applicable Joint Commission on Accreditation of Healthcare Organizations (JCAHO) standards, the Peer Review Organization (PRO) standards (and the provider's state or local licensing requirements) and other requirements specified by this part. In general, the documentation requirements for a professional provider are not less in the outpatient setting than the inpatient setting.

Adequate Medical Documentation, Mental Health Records. Adequate medical documentation provides the means for measuring the type, frequency, and duration of active treatment mechanisms employed and progress under the treatment plan. Under CHAMPUS, it is required that adequate and sufficient clinical records be kept by the provider to substantiate that specific care was actually and appropriately furnished, was medically or psychologically necessary (as defined by this part), and to identify the individual(s) who provided the care. Each service provided or billed must be documented in the records. In determining whether medical records are adequate, the records will be reviewed under the generally acceptable standards (e.g., the applicable JCAHO standards and the provider's state or local licensing requirements) and other requirements specified by this part. It must be noted that the psychiatric and psychological evaluations, physician orders, the treatment plan, integrated progress notes (and physician progress notes if separate from the integrated progress notes), and the discharge summary are the more critical elements of the mental health record. However, nursing and staff notes, no matter how complete, are not a substitute for the documentation of services by the individual professional provider who furnished treatment to the beneficiary. In general, the documentation requirements of a professional provider are not less in the outpatient setting than the inpatient setting. Furthermore, even though a hospital that provides psychiatric care may be accredited under the JCAHO manual for hospitals rather than the consolidated standards manual, the critical elements of the mental health record listed above are required for CHAMPUS claims.

* * * * *

Appropriate Medical Care

* * * * *

(iii) The services are furnished economically. For purposes of this part, "economically" means that the services are furnished in the least expensive level of care or medical environment adequate to provide the required medical care regardless of whether or not that level of care is covered by CHAMPUS.

* * * * *

Conflict of Interest. Includes any situation where an active duty member (including a reserve member while on active duty) or civilian employee of the United States Government, through an official federal position, has the apparent or actual opportunity to exert, directly or indirectly, any influence on the referral of CHAMPUS beneficiaries to himself or herself or others with some potential for personal gain or appearance of impropriety. For purposes of this part, individuals under contract to a Uniformed Service may be involved in a conflict of interest situation through the contract position.

* * * * *

Conviction. For purposes of this part, "conviction" or "convicted" means that (1) a judgment of conviction has been entered, or (2) there has been a finding of guilt by the trier of fact, or (3) a plea of guilty or a plea of *nolo contendere* has been accepted by a court of competent jurisdiction, regardless of whether an appeal is pending.

* * * * *

Dual Compensation. Federal Law (5 U.S.C. 5536) prohibits active duty members or civilian employees of the United States Government from receiving additional compensation from the government above their normal pay and allowances. This prohibition applies to CHAMPUS cost-sharing of medical care provided by active duty members or civilian government employees to CHAMPUS beneficiaries.

* * * * *

Entity. For purposes of § 199.9(f)(1), "entity" includes a corporation, trust, partnership, sole proprietorship or other kind of business enterprise that is or may be eligible to receive reimbursement either directly or indirectly from CHAMPUS.

* * * * *

Fraud. For purposes of this part, fraud is defined as (1) a deception or misrepresentation by a provider, beneficiary, sponsor, or any person acting on behalf of a provider, sponsor, or beneficiary with the knowledge (or who had reason to know or should have

known) that the deception or misrepresentation could result in some unauthorized CHAMPUS benefit to self or some other person, or some unauthorized CHAMPUS payment, or (2) a claim that is false or fictitious, or includes or is supported by any written statement which asserts a material fact which is false or fictitious, or includes or is supported by any written statement that (a) omits a material fact and (b) is false or fictitious as a result of such omission and (c) is a statement in which the person making, presenting, or submitting such statement has a duty to include such material fact. It is presumed that, if a deception or misrepresentation is established *and* a CHAMPUS claim is filed, the person responsible for the claim had the requisite knowledge. This presumption is rebuttable only by substantial evidence. It is further presumed that the provider of the services is responsible for the actions of all individuals who file a claim on behalf of the provider (for example, billing clerks); this presumption may only be rebutted by clear and convincing evidence.

* * * * *

Item, Service, or Supply. Includes (1) any item, device, medical supply, or service claimed to have been provided to a beneficiary (patient) and listed in an itemized claim for CHAMPUS payment or a request for payment, or (2) in the case of a claim based on costs, any entry or omission in a cost report, books of account, or other documents supporting the claim.

* * * * *

Ownership or Control Interest. For purposes of § 199.9(f)(1), a "person with an ownership or control interest" is anyone who

(1) Has directly or indirectly a 5 percent or more ownership interest in the entity; or

(2) Is the owner of a whole or part interest in any mortgage, deed of trust, note, or other obligation secured (in whole or in part) by the entity or any of the property or assets thereof, which whole or part interest is equal to or exceeds 5 percent of the total property and assets of the entity; or

(3) Is an officer or director of the entity if the entity is organized as a corporation; or

(4) Is a partner in the entity if the entity is organized as a partnership.

* * * * *

Provider Exclusion and Suspension. The terms "exclusion" and "suspension", when referring to a provider under CHAMPUS, both mean the denial of status as an authorized provider, resulting in items, services, or supplies furnished by the provider not being reimbursed, directly or indirectly, under CHAMPUS. The terms may be used interchangeably to refer to a provider who has been denied status as an authorized CHAMPUS provider based on (1) a criminal conviction or civil judgment involving fraud, (2) an administrative finding of fraud or abuse under CHAMPUS, (3) an administrative finding that the provider has been excluded or suspended by another agency of the Federal Government, a state, or a local licensing authority, (4) an administrative finding that the provider has knowingly participated in a conflict of interest situation, or (5) an administrative finding that it is in the best interests of the CHAMPUS or CHAMPUS beneficiaries to exclude or suspend the provider.

Provider Termination. When a provider's status as an authorized CHAMPUS provider is ended, other than through exclusion or suspension, based on a finding that the provider does not meet the qualifications, as set forth in § 199.6 of this part, to be an authorized CHAMPUS provider.

* * * * *

Sanction. For purpose of § 199.9, "sanction" means a provider exclusion, suspension, or termination.

* * * * *

Suspension of Claims Processing. The temporary suspension of processing (to protect the government's interests) of claims for care furnished by a specific provider (whether the claims are submitted by the provider or beneficiary) or claims submitted by or on behalf of a specific CHAMPUS beneficiary pending action by the Director, OCHAMPUS, or a designee, in a case of suspected fraud or abuse. The action may include the administrative remedies provided for in § 199.9 or any other Department of Defense issuance (e.g. DoD issuances implementing the Program Fraud Civil Remedies Act), case development or investigation by OCHAMPUS, or referral to the Department of Defense-Inspector General or the Department of Justice for action within their cognizant jurisdictions.

* * * * *

3. Section 199.6 is amended by revising paragraphs (a), (a)(1), and (a)(3); by removing paragraph (a)(4); by redesignating paragraph (a)(5) as (a)(4); by redesignating paragraph (a)(6) as (a)(5) and revising it; by redesignating paragraphs (a)(7) as (a)(6), (a)(8) as (a)(7), and (a)(9) as (a)(8); by revising paragraph (b)(3)(iv) and removing paragraphs (b)(3)(iv)(A) through (b)(3)(iv)(D); and by adding a new paragraph (f) to read as follows:

§ 199.6 Authorized providers.

(a) *General.* This section sets forth general policies and procedures that are the basis for the CHAMPUS cost-sharing of medical services and supplies provided by institutions, individuals, or other types of providers. Providers seeking payment from the Federal Government through programs such as CHAMPUS have a duty to familiarize themselves with, and comply with, the program requirements.

(1) *Listing of provider does not guarantee payment of benefits.* The fact that a type of provider is listed in this section is not to be construed to mean that CHAMPUS will automatically pay a claim for services or supplies provided by such a provider. The provider who actually furnishes the service(s) must, in fact, meet all licensing and other requirements established by this Part to be an authorized provider; the provider must not be the subject of sanction under § 199.9; and, cost-sharing of the services must not otherwise be prohibited by this part. In addition, the patient must in fact be an eligible beneficiary and the services or supplies billed must be authorized and medically necessary, regardless of the standing of the provider.

* * * * *

(3) *Dual Compensation/Conflict of Interest.* Title 5, United States Code, section 5536 prohibits medical personnel who are active duty Uniformed Service members or civilian employees of the Government from receiving additional Government compensation above their normal pay and allowances for medical care furnished. In addition, Uniformed Service members and civilian employees of the Government are generally prohibited by law and agency regulations and policies from participating in apparent or actual conflict of interest situations in which a potential for personal gain exists or in which there is an appearance of impropriety or incompatibility with the performance of their official duties or responsibilities. The Departments of Defense, Health and Human Services, and Transportation have a responsibility, when disbursing appropriated funds in the payment of CHAMPUS benefits, to ensure that the laws and regulations are not violated. Therefore, active duty Uniformed Service members (including a reserve member while on active duty and civilian employees of the United States Government shall not be authorized to be CHAMPUS providers. While

individual employees of the Government may be able to demonstrate that the furnishing of care to CHAMPUS beneficiaries may not be incompatible with their official duties and responsibilities, the processing of millions of CHAMPUS claims each year does not enable Program administrators to efficiently review the status of the provider on each claim to ensure that no conflict of interest or dual compensation situation exists. The problem is further complicated given the numerous interagency agreements (for example, resource sharing arrangements between the Department of Defense and the Veterans Administration in the provision of health care) and other unique arrangements which exist at individual treatment facilities around the country. While an individual provider may be prevented from being an authorized CHAMPUS provider even though no conflict of interest or dual compensation situation exists, it is essential for CHAMPUS to have an easily administered, uniform rule which will ensure compliance with the existing laws and regulations. Therefore, a provider who is an active duty Uniformed Service member or civilian employee of the Government shall not be an authorized CHAMPUS provider. In addition, a provider shall certify on each CHAMPUS claim that he/she is not an active duty Uniformed Service member or civilian employee of the Government.

(4) *For-profit institutions excluded under PFTH.* * * *

(5) *Utilization review and quality assurance.* Providers approved as authorized CHAMPUS providers have certain obligations to provide services and supplies under CHAMPUS which are (i) furnished at the appropriate level and only when and to the extent medically necessary under the criteria of this part; (ii) of a quality that meets professionally recognized standards of health care; and, (iii) supported by adequate medical documentation as may be reasonably required under this part by the Director, OCHAMPUS, or designee, to evidence the medical necessity and quality of services furnished, as well as the appropriateness of the level of care. Therefore, the authorization of CHAMPUS benefits is contingent upon the services and supplies furnished by any provider being subject to pre-payment or post-payment utilization and quality assurance review under professionally recognized standards, norms, and criteria, as well as any standards or criteria issued by the Director OCHAMPUS, or a designee, pursuant to this part. (Refer to §§ 199.4, 199.5, and 199.7 of this part.)

(6) *Provider required.* * * *

(7) *Participating provider.* * * *

(8) *Limitation to authorized institutional provider designation.* * * *

(b) * * *

(3) * * *

(iv) *Institutions not in compliance with CHAMPUS standards.* If a determination is made that an institution is not in compliance with one or more of the standards applicable to its specific category of institution, CHAMPUS shall take immediate steps to bring about compliance or terminate the approval as an authorized institution in accordance with § 199.9(f)(2).

* * * * *

(f) *Exclusion.* Regardless of any provision in this section, a provider who is suspended, excluded, or terminated under § 199.9 of this part is specifically excluded as an authorized CHAMPUS provider.

4. Section 199.7 is amended by removing paragraph (i) in its entirety; and by redesignating paragraphs (j) as (i) and (k) as (j) to read as follows:

§ 199.7 Claims submission, review and payment.

* * * * *

(h) * * *

(i) *Erroneous payments and recoupment.* * * *

(j) *General assignment of benefits not recognized.* * * *

5. Section 199.9 is added to read as follows:

§ 199.9 Administrative remedies for fraud, abuse, and conflict of interest.

(a) *General.* (1) This section sets forth provisions for invoking administrative remedies under CHAMPUS in situations involving fraud, abuse, or conflict of interest. The remedies impact institutional providers, professional providers, and beneficiaries (including parents, guardians, or other representatives of beneficiaries), and cover situations involving criminal fraud, civil fraud, administrative determinations of conflicts of interest or dual compensation, and administrative determinations of fraud or abuse. The administrative actions, remedies, and procedures may differ based upon whether the initial findings were made by a court of law, another agency, or the Director, OCHAMPUS (or designee).

(2) This section also sets forth provisions for invoking administrative remedies in situations requiring administrative action to enforce provisions of law, regulation, and policy in the administration of CHAMPUS and to ensure quality of care for CHAMPUS beneficiaries. Examples of such situations may include a case in which it is discovered that a provider fails to meet requirements under this part to be an authorized CHAMPUS provider; a case in which the provider ceases to be qualified as a CHAMPUS provider because of suspension or revocation of the provider's license by a local licensing authority; or a case in which a provider meets the minimum requirements under this part but, nonetheless, it is determined that it is in the best interest of the CHAMPUS or CHAMPUS beneficiaries that the provider should not be an authorized CHAMPUS provider.

(3) The administrative remedies set forth in this section are in addition to, and not in lieu of, any other remedies or sanctions authorized by law or regulation. For example, administrative action under this section may be taken in a particular case even if the same case will be or has been processed under the administrative procedures established by the Department of Defense to implement the Program Fraud Civil Remedies Act.

(4) Providers seeking payment from the Federal Government through programs such as CHAMPUS have a duty to familiarize themselves with, and comply with, the program requirements.

(5) CHAMPUS contractors and peer review organizations have a responsibility to apply provisions of this regulation in the discharge of their duties, and to report all known situations involving fraud, abuse, or conflict of interest. Failure to report known situations involving fraud, abuse, or conflict of interest will result in the withholding of administrative payments or other contractual remedies as determined by the Director, OCHAMPUS, or a designee.

(b) *Abuse.* The term "abuse" generally describes incidents and practices which may directly or indirectly cause financial loss to the Government under CHAMPUS or to CHAMPUS beneficiaries. For the definition of abuse, see § 199.2 of this part. The type of abuse to which CHAMPUS is most vulnerable is the CHAMPUS claim involving the overutilization of medical and health care services. To avoid abuse situations, providers have certain obligations to provide services and supplies under CHAMPUS which are: Furnished at the appropriate level and only when and to the extent medically necessary as determined under the provisions of this part; of a quality that meets professionally recognized standards of health care; and, supported by adequate medical documentation as

may reasonably be required under this Part by the Director, OCHAMPUS, or a designee, to evidence the medical necessity and quality of services furnished, as well as the appropriateness of the level of care. A provider's failure to comply with these obligations can result in sanctions being imposed by the Director, OCHAMPUS, or a designee, under this section. Even when administrative remedies are not initiated under this section, abuse situations under CHAMPUS are a sufficient basis for denying all or any part of CHAMPUS cost-sharing of individual claims. The types of abuse or possible abuse situations under CHAMPUS include, but are not limited, to the following:

(1) A pattern of waiver of beneficiary (patient) cost-share or deductible.

Note: In a case of a legitimate bad debt write-off of patient cost-share or deductible, the provider's record should include documentation as to what efforts were made to collect the debt, when the debt was written off, why the debt was written off, and the amount of the debt written off.

(2) Improper billing practices. Examples include, charging CHAMPUS beneficiaries rates for services and supplies that are in excess of those charges routinely charged by the provider to the general public, commercial health insurance carriers, or other federal health benefit entitlement programs for the same or similar services. (This includes dual fee schedules—one for CHAMPUS beneficiaries and one for other patients or third-party payers. This also includes billing other third-party payers the same as CHAMPUS is billed but accepting less than the billed amount as reimbursement. However, a formal discount arrangement such as through a preferred provider organization, may not necessarily constitute an improper billing practice.)

(3) A pattern of claims for services which are not medically necessary or, if medically necessary, not to the extent rendered. For example, a battery of diagnostic tests are given when, based on the diagnosis, fewer tests were needed.

(4) Care of inferior quality. For example, consistently furnishing medical or mental health services that do not meet accepted standards of care.

(5) Failure to maintain adequate medical or financial records.

(6) Refusal to furnish or allow the Government (for example, OCHAMPUS) or Government contractors access to records related to CHAMPUS claims.

(7) Billing substantially in excess of customary or reasonable charges unless it is determined by OCHAMPUS that the excess charges are justified by unusual circumstances or medical complications requiring additional time, effort, or expense in localities when it is accepted medical practice to make an extra charge in such cases.

(8) Unauthorized use of the term "Civilian Health and Medical Program of the Uniformed Services (CHAMPUS)" in private business. While the use of the term "CHAMPUS" is not prohibited by federal statute, misrepresentation or deception by use of the term "CHAMPUS" to imply an official connection with the Government or to defraud CHAMPUS beneficiaries may be a violation of federal statute. Regardless of whether the actual use of the term "CHAMPUS" may be actionable under federal statute, the unauthorized or deceptive use of the term "CHAMPUS" in private business will be considered abuse for purposes of this Section.

(c) *Fraud.* For the definition of fraud, see § 199.2 of this part. Examples of situations which, for the purpose of this Part, are presumed to be fraud include, but are not limited to:

(1) Submitting CHAMPUS claims (including billings by providers when the claim is submitted by the beneficiary) for services, supplies, or equipment not furnished to, or used by, CHAMPUS beneficiaries. For example, billing or claiming services when the provider was on call (other than an authorized standby charge) and did not provide any specific medical care to the beneficiary; providing services to an ineligible person and billing or submitting a claim for the services in the name of an eligible CHAMPUS beneficiary; billing or submitting a CHAMPUS claim for an office visit for a missed appointment; or billing or submitting a CHAMPUS claim for individual psychotherapy when a medical visit was the only service provided.

(2) Billing or submitting a CHAMPUS claim for costs for noncovered or nonchargeable services, supplies, or equipment disguised as covered items. Some examples are: (i) Billings or CHAMPUS claims for services which would be covered except for the frequency or duration of the services, such as billing or submitting a claim for two one-hour psychotherapy sessions furnished on separate days when the actual service furnished was a two-hour therapy session on a single day, (ii) spreading the billing or claims for services over a time period that reduces the apparent frequency to a level that may be cost-shared by CHAMPUS, (iii) charging to CHAMPUS, directly or indirectly, costs not incurred or not reasonably allowable to the services billed or claimed under CHAMPUS, for example, costs attributable to nonprogram activities, other enterprises, or the personal expenses of principals, or (iv) billing or submitting claim on a fee-for-service basis when in fact a personal service to a specific patient was not performed and the service rendered is part of the overall management of, for example, the laboratory or x-ray department.

(3) Breach of a provider participation agreement which results in the beneficiary (including parent, guardian, or other representative) being billed for amounts which exceed the CHAMPUS-determined allowable charge or cost.

(4) Billings or CHAMPUS claims for supplies or equipment which are clearly unsuitable for the patient's needs or are so lacking in quality or sufficiency for the purpose as to be virtually worthless.

(5) Billings or CHAMPUS claims which involve flagrant and persistent overutilization of services without proper regard for results, the patient's ailments, condition, medical needs, or the physician's orders.

(6) Misrepresentations of dates, frequency, duration, or description of services rendered, or of the identity of the recipient of the services or the individual who rendered the services.

(7) Submitting falsified or altered CHAMPUS claims or medical or mental health patient records which misrepresent the type, frequency, or duration of services or supplies or misrepresent the name(s) of the individual(s) who provided the services or supplies.

(8) Duplicate billings or CHAMPUS claims. This includes billing or submitting CHAMPUS claims more than once for the same services, billing or submitting claims both to CHAMPUS and the beneficiary for the same services, or billing or submitting claims both to CHAMPUS and other third-parties (such as other health insurance or government agencies) for the same services, without making full disclosure of material facts or immediate, voluntary repayment or notification to CHAMPUS upon receipt of payments which combined exceed the CHAMPUS-determined allowable charge of the services involved.

(9) Misrepresentation by a provider of his or her credentials or concealing information or business practices which bear on the provider's qualifications for authorized CHAMPUS provider status. For example, a provider representing that he or she has a qualifying doctorate in clinical psychology when the degree

is not from a regionally accredited university.

(10) Reciprocal billing. Billing or claiming services which were furnished by another provider or furnished by the billing provider in a capacity other than as billed or claimed. For example, practices such as the following: (i) One provider performing services for another provider and the latter bills as though he had actually performed the services (e.g., a weekend fill-in); (ii) providing service as an institutional employee and billing as a professional provider for the services; (iii) billing for professional services when the services were provided by another individual who was an institutional employee; (iv) billing for professional services at a higher provider profile than would be paid for the person actually furnishing the services, (for example, bills reflecting that an M.D. or Ph.D. performed the services when services were actually furnished by a licensed social worker, psychiatric nurse, or marriage and family counselor); or (v) an authorized provider billing for services which were actually furnished by an unauthorized or sanctioned provider.

(11) Submitting CHAMPUS claims at a rate higher than a rate established between CHAMPUS and the provider, if such a rate has been established. For example, billing or claiming a rate in excess of the provider's most favored rate limitation specified in a residential treatment center agreement.

(12) Arrangements by providers with employees, independent contractors, suppliers, or others which appear to be designed primarily to overcharge the CHAMPUS through various means (such as commissions, fee-splitting, and kickbacks) used to divert or conceal improper or unnecessary costs or profits.

(13) Agreements or arrangements between the supplier and recipient (recipient could be either a provider or beneficiary, including the parent, guardian, or other representative of the beneficiary) that result in billings or claims which include unnecessary costs or charges to CHAMPUS.

(d) *Conflict of Interest.* (1) Conflict of interest includes any situation where an active duty member of the Uniformed Services (including a reserve member while on active duty, active duty for training, or inactive duty training) or civilian employee of the United States Government, through an official federal position has the apparent or actual opportunity to exert, directly or indirectly, any influence on the referral of CHAMPUS beneficiaries to himself/herself or others with some potential for personal gain or the appearance of impropriety. Although individuals under contract to the Uniformed Services are not considered "employees," such individuals are subject to conflict of interest provisions by express terms of their contracts and, for purposes of this Part, may be considered to be involved in conflict of interest situations as a result of their contract positions. In any situation involving potential conflict of interest of a Uniformed Service employee, the Director, OCHAMPUS, or a designee, may refer the case to the Uniformed Service concerned for appropriate review and action. If such a referral is made, a report of the results of findings and action taken shall be made to the Director, OCHAMPUS, by the Uniformed Service having jurisdiction within 90 days of receiving the referral.

(2) CHAMPUS cost-sharing shall be denied on any claim where a conflict of interest situation is found to exist. This denial of cost-sharing applies whether the claim is submitted by the individual who provided the care, the institutional provider in which the care was furnished, or the beneficiary.

(e) *Dual Compensation.* (1) Federal law (5 U.S.C. 5536) prohibits active duty members of the Uniformed Services or employees (including part-time or intermittent) appointed in the civil service of the United States Government from receiving additional compensation from the Government above their normal pay and allowances. This prohibition applies to CHAMPUS payments for care furnished to CHAMPUS beneficiaries by active duty members of the Uniformed Services or civilian employees of the Government.

(2) CHAMPUS cost-sharing of a claim shall be denied where the services or supplies were provided by an active duty member of the Uniformed Services or a civilian employee of the Government. This denial of CHAMPUS payment applies whether the claim for reimbursement is filed by the individual who provided the care, the institutional provider in which the care was furnished, or by the beneficiary.

Note: Physicians of the National Health Service Corps (NHSC) may be assigned to areas where there is a shortage of medical providers. Although these physicians would be prohibited from accepting CHAMPUS payments as individuals if they are employees of the United States Government, the private organizations to which they may be assigned may be eligible for payment, as determined by the Director, OCHAMPUS, or a designee.

(3) The prohibition against dual compensation does not apply to individuals under contract to the Uniformed Services or the Government.

(f) *Administrative Remedies.* Administrative remedies available under CHAMPUS in this section are set forth below.

(1) *Provider exclusion or suspension.* The Director, OCHAMPUS, or a designee, shall have the authority to exclude or suspend an otherwise authorized CHAMPUS provider from the program based on any criminal conviction or civil judgment involving fraud by the provider; fraud or abuse under CHAMPUS by the provider; exclusion or suspension of the provider by another agency of the Federal Government, a state, or local licensing authority; participation in a conflict of interest situation by the provider; or, when it is in the best interests of the program or CHAMPUS beneficiaries to exclude or suspend a provider under CHAMPUS. In all cases, the exclusion or suspension of a provider shall be effective 15 calendar days from the date on the written initial determination issued under paragraph (h)(2) of this section.

(i) *Criminal conviction or civil judgment involving fraud by a provider.*—(A) *Criminal conviction involving CHAMPUS fraud.* A provider convicted by a Federal, state, foreign, or other court of competent jurisdiction of a crime involving CHAMPUS fraud, whether the crime is a felony or misdemeanor, shall be excluded or suspended from CHAMPUS for a period of time as determined by the Director, OCHAMPUS, or a designee. The CHAMPUS exclusion or suspension applies whether or not the provider, as a result of the conviction, receives probation or the sentence is suspended or deferred, and whether or not the conviction or sentence is under appeal.

Note: Under the above paragraph (f)(1)(i)(A) of this section, an entity may be excluded or suspended from CHAMPUS whenever the entity is found to have a person, convicted of a crime involving CHAMPUS fraud, who has a direct or indirect ownership or control interest (see § 199.2) of 5 percent or more in the entity, or is an officer, director, agent or managing employee of the entity. The entity will have an opportunity to provide evidence to show that the ownership or control relationship has ceased. While an entity will not be excluded or suspended from CHAMPUS for employing a provider who has been sanctioned under this Section, the entity will be denied CHAMPUS payment for any services furnished by the sanctioned employee. As an authorized CHAMPUS provider, the entity is responsible for ensuring that all CHAMPUS claims involve services furnished to CHAMPUS beneficiaries by employees who meet all requirements under CHAMPUS for provider status.

(B) *Criminal conviction involving fraud of other Federal programs.* Any provider convicted by a Federal, state, or other court of competent jurisdiction of a crime involving another Federal health care or benefit program (such as plans administered under titles XVIII and XIX of the Social Security Act, Federal Workmen's Compensation, and the Federal Employees Program (FEP) for employee health insurance), whether the crime is a felony or misdemeanor, shall be excluded from CHAMPUS for a period of time as determined by the Director, OCHAMPUS, or a designee. The CHAMPUS exclusion or suspension applies whether or not the provider, as a result of the conviction, receives probation or the sentence is suspended or deferred, and whether or not the conviction or sentence is under appeal.

(C) *Criminal conviction involving fraud of non-Federal programs.* Any provider convicted by a Federal, state, foreign, or other court of competent jurisdiction of a crime involving any non-Federal health benefit program or private insurance involving health benefits may be excluded or suspended from CHAMPUS for a period of time as determined by the Director, OCHAMPUS, or a designee.

(D) *Civil fraud involving CHAMPUS.* If a judgment involving civil fraud has been entered (whether or not it is appealed) against a provider in a civil action involving CHAMPUS benefits (whether or not other Federal programs are involved), the provider shall be excluded or suspended from CHAMPUS for a period determined by the Director, OCHAMPUS, or a designee.

(E) *Civil fraud involving other programs.* If a judgment involving civil fraud has been entered against a provider (whether or not it has been appealed) in a civil action involving other public or private health care programs or health insurance, the provider may be excluded or suspended for a period of time determined by the Director, OCHAMPUS, or a designee.

(ii) *Administrative determination of fraud or abuse under CHAMPUS.* If the Director, OCHAMPUS, or a designee, determines that a provider has committed fraud or abuse as defined in this part, the provider shall be excluded or suspended from CHAMPUS for a period of time determined by the Director, OCHAMPUS, or designee.

(iii) *Administrative determination that the provider has been excluded or suspended by another agency of the Federal Government, a state, or local licensing authority.* Any provider who is excluded or suspended by any other Federal health care program (for example, Medicare), shall be excluded or suspended under CHAMPUS. A provider who has his/her credentials revoked through a Veterans Administration or Military Department credentials review process and who is excluded, suspended, terminated, retired, or separated, shall also be excluded or suspended under CHAMPUS. The period of time of exclusion or suspension shall be determined by the Director, OCHAMPUS, or a designee, pursuant to paragraph (g) of this section.

(iv) *Administrative determination that the provider has participated in a conflict of interest situation.* The Director, OCHAMPUS, or a designee, may exclude or suspend any provider who has knowingly been involved in a conflict of interest situation under CHAMPUS. The period of time of exclusion or suspension shall be determined by the Director, OCHAMPUS, or a designee, pursuant to paragraph (g) of this section. For purposes of this administrative determination, it will be presumed that a CHAMPUS provider knowingly participated in a conflict of interest situation if the provider employs, in the treatment of a CHAMPUS beneficiary (resulting in a CHAMPUS claim), any medical personnel who are active duty members of the Uniformed Services or civilian employees of the Government. The burden of proof to rebut this presumption rests with the CHAMPUS provider. Two exceptions will be recognized to the presumption that a conflict of interest exists. First, indirect CHAMPUS payments may be made to private organizations to which physicians of the National Health Service Corps (NHSC) are assigned. Second, any off-duty Government medical personnel employed in an emergency room of an acute care hospital will be presumed not to have had the opportunity to exert, directly or indirectly, any influence on the referral of CHAMPUS beneficiaries; therefore, CHAMPUS payments may be made to the employing hospital *provided* the medical care was not furnished directly by the off-duty Government medical personnel in violation of dual compensation provisions.

(v) *Administrative determination that it is in the best interests of the CHAMPUS or CHAMPUS beneficiaries to exclude or suspend a provider*—(A) *Unethical or improper practices or unprofessional conduct.* (*1*) In most instances, unethical or improper practices or unprofessional conduct by a provider will be program abuse and subject the provider to exclusion or suspension for abuse. However, in some cases such practices and conduct may provide an independent basis for exclusion or suspension of the provider by the Director, OCHAMPUS, or a designee.

(*2*) Such exclusions or suspensions may be based on findings or recommendations of state licensure boards, boards of quality assurance, other regulatory agencies, state medical societies, peer review organizations, or other professional associations.

(B) *In any other case in which the Director, OCHAMPUS (or designee), determines that exclusion or suspension of a provider is in the best interests of CHAMPUS or CHAMPUS beneficiaries.* The Director, OCHAMPUS, or a designee, may exclude or suspend any provider if it is determined that the authorization of that particular provider under CHAMPUS poses an unreasonable potential for fraud, abuse, or professional misconduct. Any documented misconduct by the provider reflecting on the business or professional competence or integrity of the provider may be considered. Situations in which the Director, OCHAMPUS, or a designee, may take administrative action under this Section to protect CHAMPUS or CHAMPUS beneficiaries include, but are not limited to, a case in which it is determined that a provider poses an unreasonable potential cost to the Government to monitor the provider for fraud or abuse and to avoid the issuance of erroneous payments; or that the provider poses an unreasonable potential harm to the financial or health status of CHAMPUS beneficiaries; or that the provider poses any other unreasonable threat to the interests of CHAMPUS or CHAMPUS beneficiaries. One example of such circumstances involves a provider who, for his/her entire practice or for most of his/her practice, provides or bills for tratment that is not a CHAMPUS benefit, resulting in CHAMPUS frequently and repeatedly denying claims as non-covered services. This may occur when a professional provider furnishes sex therapy (a therapy which may be recognized by the provider's licensing authority but which is excluded from CHAMPUS coverage) and repeatedly submits CHAMPUS claims for the services.

(2) *Provider termination.* The Director, OCHAMPUS, or a designee, shall terminate the provider status of any provider determined not to meet the qualifications established by this part to be an authorized CHAMPUS provider.

(i) *Effective date of termination.* Except as provided in paragraph (g)(2)(ii) of this section, the termination shall be retroactive to the date on which

the provider did not meet the requirements of this Part.

(A) The retroactive effective date of termination shall not be limited due to the passage of time, erroneous payment of claims, or any other events which may be cited as a basis for CHAMPUS recognition of the provider notwithstanding the fact that the provider does not meet program qualifications. Unless specific provision is made in this part to "grandfather" or authorize a provider who does not otherwise meet the qualifications established by this part, all unqualified providers shall be terminated.

(B) Any claims cost-shared or paid under CHAMPUS for services or supplies furnished by the provider on or after the effective date of termination, even when the effective date is retroactive, shall be deemed an erroneous payment unless specific exception is provided in this Part. All erroneous payments are subject to collection under § 199.11 of this part.

(C) If an institution is terminated as an authorized CHAMPUS provider, the institution shall immediately give written notice of the termination to any CHAMPUS beneficiary (or their parent, guardian, or other representative) admitted to, or receiving care at, the institution on or after the effective date of the termination. In addition, when an institution is terminated with an effective date of termination after the date of the initial determination terminating the provider, any beneficiary admitted to the institution prior to the effective date of termination (or their parent, guardian, or other representative) shall be notified by the Director, OCHAMPUS, or a designee, by certified mail of the termination, and that CHAMPUS cost-sharing of the beneficiary's care in the institution will cease as of the effective date of the termination. However, any beneficiary admitted to the institution prior to any grace period extended to the institution under paragraph (f)(2)(ii)(A) of this section shall be advised that, if the beneficiary's care otherwise qualifies for CHAMPUS coverage, CHAMPUS cost-sharing of the care in the institution will continue in order to provide a reasonable period of transition of care; however the transitional period of CHAMPUS cost-sharing shall not exceed the last day of the month following the month in which the institution's status as a CHAMPUS provider is terminated. (This authorized CHAMPUS cost-sharing of the inpatient care received during the transition period is an exception to the general rule that CHAMPUS payment for care furnished after the effective date of termination of the provider's status shall be deemed to be an erroneous payment.) If a major violation under paragraph (f)(2)(ii)(B) of this section is involved, in order to ensure immediate action is taken to transfer beneficiaries to an approved provider, CHAMPUS cost-sharing shall not be authorized after the effective date of termination of the provider's status.

(ii) *Institutions not in compliance with CHAMPUS standards.* If it is determined that an institution is not in compliance with one or more of the standards applicable to its specific category of institution under this Part, the Director, OCHAMPUS, or a designee, shall take immediate steps to bring about compliance or terminate the status of the provider as an authorized CHAMPUS provider.

(A) *Minor violations.* An institution determined to be in violation of one or more of the standards shall be advised by certified mail of the nature of the discrepancy or discrepancies and will be given a grace period of 30 days to effect appropriate corrections. The grace period may be extended at the discretion of the Director, OCHAMPUS, or a designee, but in no event shall the extension exceed 90 days.

(*1*) CHAMPUS will not cost-share a claim for any beneficiary admitted during the grace period.

(*2*) Any beneficiary admitted to the institution prior to the grace period (or the beneficiary's parent, guardian, or other representative) will be notified by the Director, OCHAMPUS, or a designee, in writing, of the minor violations and the grace period granted the institution to correct the violations. The beneficiary will also be advised that, if the beneficiary's care otherwise meets all requirements for CHAMPUS coverage, CHAMPUS cost-sharing will continue during the grace period.

(*3*) If the institution submits written notice before the end of the grace period that corrective action has been taken *and* if the Director, OCHAMPUS, or a designee, determines that the corrective action has eliminated the minor violations, the provider will be advised that the institution is restored to full status as an authorized CHAMPUS provider as of 12:01 a.m. on the day written notice of correction was received by the Director, OCHAMPUS, or a designee, or the day on which acceptable corrective action was completed in the judgment of the Director, OCHAMPUS, or a designee. Any beneficiary admitted to the institution prior to the grace period will be notified by the Director, OCHAMPUS, or a designee, of the corrective action and that the provider continues to be an authorized CHAMPUS provider. CHAMPUS cost-sharing for any beneficiary admitted to the institution during the grace period shall be allowed only for care received after 12:01 a.m. on the day written notice of correction was received by the Director, OCHAMPUS, or a designee, or the day on which acceptable corrective action was completed in the judgment of the Director, OCHAMPUS, or a designee.

(*4*) If the institution has failed to give notification in writing before the end of the grace period that corrective action has been completed *or*, in the judgment of the Director, OCHAMPUS, or a designee, the institution has not completed acceptable corrective action during the grace period, the Director, OCHAMPUS, or a designee, may initiate action to terminate the provider as an authorized CHAMPUS provider.

(B) *Major violations.* If the Director, OCHAMPUS, or a designee, determines that an institution is in violation of standards detrimental to life, safety, or health, or substantially in violation of approved treatment programs, immediate action shall be taken to terminate the institution as an authorized CHAMPUS provider. The institution shall be notified by telegram, certified mail, or express mail of the termination under this subparagraph, effective on receipt of the notice. The notice shall include a brief statement of the nature of violations resulting in the termination and advise the institution that an initial determination formalizing the administrative action of termination will be issued pursuant to paragraph (h)(3)(ii) of this section within 15 days.

(3) *Beneficiary sanctions.* (i) With entitlement to CHAMPUS benefits based on public law, an eligible beneficiary will not be suspended or excluded from CHAMPUS. However, the Director, OCHAMPUS, or a designee, may take action deemed appropriate and reasonable to protect the Government from those beneficiaries (including sponsors, parents, guardians, or representatives of beneficiaries) who have submitted false claims.

(ii) Pursuant to § 199.11 of this part, the Director, OCHAMPUS, or a designee, may recover erroneous payments on claims involving fraud or false or misleading statements. Remedies for recovery of the erroneous payments include the use of offset against future CHAMPUS payments.

(iii) Under policies adopted by the Director, OCHAMPUS, or a designee,

individuals who, based on reliable information, have previously submitted fraudulent or false CHAMPUS claims, may be required to comply with any procedures (e.g., partial or total pre-payment audit or review, restriction to a designated primary care provider, etc.) which the Director, OCHAMPUS, or a designee, deems appropriate to ensure that their future medical care and CHAMPUS claims (including the medical care and CHAMPUS claims submitted by or for members of their family) are valid.

(g) *Period of exclusion, suspension, or termination*—(1) *Exclusions or suspensions.* Except as otherwise required by paragraph (g)(1)(i) of this section, the Director, OCHAMPUS, or a designee, shall determine the period of exclusion or suspension for a provider using the factors set forth in paragraph (g)(1)(ii) of this section.

(i) *Exclusion or suspension of a provider based on the provider's exclusion or suspension by another agency of the Federal Government, a state, or a local licensing authority.* If the administrative action under CHAMPUS is based *solely* on the provider's exclusion or suspension by another agency, state, or local licensing authority, the period of exclusion or suspension under CHAMPUS shall be for the same length of time of exclusion or suspension imposed by the other agency, state, or local licensing authority. The provider may request reinstatement as an authorized CHAMPUS provider if reinstatement is achieved under the other program prior to the end of the period of exclusion or suspension. If the administrative action under CHAMPUS is not based *solely* on the provider's exclusion or suspension by another agency, state, or local licensing authority, the minimum period of exclusion or suspension shall be for the same period of exclusion or suspension imposed by the other agency, state, or local licensing authority.

(ii) *Factors to be considered in determining the period of exclusion or suspension of providers under CHAMPUS.* In determining the period of exclusion or suspension of a provider, the Director, OCHAMPUS, or a designee, may consider any or all of the following:

(A) When the case concerns all or any part of the same issues which have been the subject of criminal conviction or civil judgment involving fraud by a provider:

(*1*) The period(s) of sentence, probation, and other sanction imposed by court order against the provider may be presumed reasonable and adopted as the administrative period of exclusion or suspension under CHAMPUS, unless aggravating or mitigating factors exist.

(*2*) If any aggravating factors exist, then cause exists for the Director, OCHAMPUS, or a designee, to consider the factors set forth in paragraph (g)(1)(ii)(B) of this section, in imposing a period of administrative exclusion or suspension in excess of the period(s) of sentence, probation, and/or other sanctions imposed by court order. Examples of aggravating factors include, but are not limited to:

(*i*) An administrative determination by the Director, OCHAMPUS, or a designee, that the basis for administrative exclusion or suspension includes an act(s) of fraud or abuse under CHAMPUS in addition to, or unrelated to, an act(s) of fraud included in the court conviction or civil judgment.

(*ii*) The fraudulent act(s) involved in the criminal conviction or civil judgment, or similar acts, were committed over a significant period of time; that is, one year or more.

(*iii*) The act(s) of fraud or abuse had an adverse physical, mental, or financial impact on one or more CHAMPUS beneficiaries.

(*iv*) The loss or potential loss to CHAMPUS is over $5,000. The entire amount of loss or potential loss to CHAMPUS due to acts of fraud and abuse will be considered, in addition to the amount of loss involved in the court conviction or civil judgment, regardless of whether full or partial restitution has been made to CHAMPUS.

(*v*) The provider has a prior court record, criminal or civil, or administrative record or finding of fraud or abuse.

(*3*) If any mitigating factors exist, then cause may exist for the Director, OCHAMPUS, or a designee, to reduce a period of administrative exclusion or suspension from any period(s) imposed by court conviction or civil judgment. Only the existence of either of the following two factors may be considered in mitigation:

(*i*) The criminal conviction or civil judgment only involved three or fewer misdemeanor offenses, and the total of the estimated losses incurred (including any loss from act(s) not involved in the conviction or judgment) is less than $1,000, regardless of whether full or partial restitution has been made.

(*ii*) The criminal or civil court proceedings establish that the provider had a mental, emotional or physical condition, prior to or contemporaneous with the commission of the act(s), that reduced the provider's criminal or civil culpability.

(B) The Director, OCHAMPUS, or a designee, may consider the following factors in determining a reasonable period of exclusion or suspension of a provider under CHAMPUS:

(*1*) The nature of the claims and the circumstances under which they were presented;

(*2*) The degree of culpability;

(*3*) History of prior offenses (including whether claims were submitted while the provider was either excluded or suspended pursuant to prior administrative action);

(*4*) Number of claims involved;

(*5*) Dollar amount of claims involved;

(*6*) Whether, if a crime was involved, it was a felony or misdemeanor;

(*7*) If patients were injured financially, mentally, or physically; the number of patients; and the seriousness of the injury(ies);

(*8*) The previous record of the provider under CHAMPUS;

(*9*) Whether restitution has been made or arrangements for repayment accepted by the Government;

(*10*) Whether the provider has resolved the conflict of interest situations or implemented procedures acceptable to the Director, OCHAMPUS, or a designee, which will prevent conflict of interest in the future; and,

(*11*) Such other factors as may be deemed appropriate.

(2) *Terminations.* When a provider's status as an authorized CHAMPUS provider is ended, other than through exclusion or suspension, the termination is based on a finding that the provider does not meet the qualifications to be an authorized provider, as set forth in this part. Therefore, the period of termination in all cases will be indefinite and will end only after the provider has successfully met the established qualifications for authorized provider status under CHAMPUS and has been reinstated under CHAMPUS. Except as otherwise provided in this subparagraph, the following guidelines control the termination of authorized CHAMPUS provider status for a provider whose license to practice (or, in the case of an institutional provider, to operate) has been temporarily or permanently suspended or revoked by the jurisdiction issuing the license.

(i) Termination of the provider under CHAMPUS shall continue even if the provider obtains a license to practice in a second jurisdiction during the period of suspension or revocation of the provider's license by the original licensing jurisdiction. A provider who has licenses to practice in two or more jurisdictions and has one or more license(s) suspended or revoked will

also be terminated as a CHAMPUS provider.

(A) Professional providers shall remain terminated from the CHAMPUS until the jurisdiction(s) suspending or revoking the provider's license(s) to practice restores it or removes the impediment to restoration.

(B) Institutional providers shall remain terminated under CHAMPUS until their license is restored. In the event the facility is sold, transferred, or reorganized as a new legal entity, and a license issued under a new name or to a different legal entity, the new entity must submit an application to be an authorized CHAMPUS provider.

(ii) If the CHAMPUS provider status is terminated due to the loss of the provider's license, the effective date shall be retroactive to the date the provider lost the license; however, in the case of a professional provider who has licenses in two or more jurisdictions and submitted claims from a jurisdiction from which he/she had a valid license, the effective date of the termination will be 15 calendar days from the date of the written initial determination of termination for purposes of claims from the jurisdiction in which the provider still has a valid license.

(h) *Procedures for initiating and implementing the administrative remedies*—(1) *Temporary suspension of claims processing.* (i) In general, temporary suspension of claims processing may be invoked to protect the interests of the Government for a period reasonably necessary to complete investigation or appropriate criminal, civil, and administrative proceedings. The temporary suspension only delays the ultimate payment of otherwise appropriate claims. When claims processing involving a participating provider is temporarily suspended, the participation agreement remains in full force and the provider cannot repudiate the agreement because of the delay in the final disposition of the claim(s). Once it has been determined appropriate to end the temporary suspension of claims processing, CHAMPUS claims which were the subject of the suspension and which are otherwise determined to be in compliance with the requirements of law and regulation, will be processed to completion and payment *unless* such action is deemed inappropriate as a result of criminal, civil, or administrative remedies ultimately invoked in the case.

(ii) When adequate evidence exists to determine that a provider or beneficiary is submitting fraudulent or false claims or claims involving practices that may be fraud or abuse as defined by this part, the Director, OCHAMPUS, or a designee, may suspend CHAMPUS claims processing (in whole or in part) for claims submitted by the beneficiary or any CHAMPUS claims involving care furnished by the provider. The temporary suspension of claims processing for care furnished by a provider may be invoked against all such claims, whether or not the claims are submitted by the beneficiary or by the provider as a participating CHAMPUS provider. In cases involving a provider, notice of the suspension of claims processing may also be given to the beneficiary community either directly or indirectly through notice to appropriate military facilities, health benefit advisors, and the information or news media.

(A) Adequate evidence is any information sufficient to support the reasonable belief that a particular act or omission has occurred.

(B) Indictment or any other initiation of criminal charges, filing of a complaint for civil fraud, issuance of an administrative complaint under the Program Fraud Civil Remedies Act, or issuance of an initial determination under this part for submitting fraudulent or false claims or claims involving practices that may be fraud or abuse as defined by this part, shall constitute adequate evidence for invoking temporary suspension of claims processing.

(iii) The Director, OCHAMPUS, or a designee, may suspend CHAMPUS claims processing without first notifying the provider or beneficiary of the intent to suspend payments. Following a decision to invoke a temporary suspension, however, the Director, OCHAMPUS, or a designee, shall issue written notice advising the provider or beneficiary that:

(A) A temporary suspension of claims processing has been ordered and a statement of the basis of the decision to suspend payment. Unless the suspension is based on any of the actions set forth in paragraph (h)(1)(ii)(B) of this section, the notice shall describe the suspected acts or omissions in terms sufficient to place the provider or beneficiary on notice without disclosing the Government's evidence.

(B) Within 30 days (or, upon written request received by OCHAMPUS during the 30 days and for good cause shown, within 60 days) from the date of the notice, the provider or beneficiary may:

(*1*) Submit to the Director, OCHAMPUS, or a designee, in writing, information (including documentary evidence) and argument in opposition to the suspension, provided the additional specific information raises a genuine dispute over the material facts, or

(*2*) Submit a written request to present in person evidence or argument to the Director, OCHAMPUS, or a designee. All such presentations shall be made at the Office of Civilian Health and Medical Program of the Uniformed Services (OCHAMPUS) in Aurora, Colorado, at the provider's or beneficiary's own expense.

(C) Additional proceedings to determine disputed material facts may be conducted unless:

(*1*) The suspension is based on any of the actions set forth in paragraph (h)(1)(ii)(B) of this section, or,

(*2*) A determination is made, on the basis of the advice of the responsible Government official (e.g., an official of the Department of Justice, the designated Reviewing Official under the Program Fraud Civil Remedies Act, etc.), that the substantial interests of the Government in pending or contemplated legal or administrative proceedings based on the same facts as the suspension would be prejudiced.

(iv) If the beneficiary or provider submits, either in writing or in person, additional information or argument in opposition to the suspension, the Director, OCHAMPUS, or a designee, shall issue a suspending official's decision which modifies, terminates, or leaves in force the suspension of claims processing. However, a decision to terminate or modify the suspension shall be without prejudice to the subsequent imposition of suspension of claims processing, imposition of sanctions under this § 199.9, the recovery of erroneous payments under § 199.11 of this part, or any other administrative or legal action authorized by law or regulation. The suspending official's decision shall be in writing as follows:

(A) A written decision based on all the information in the administrative record, including any submission by the beneficiary or provider, shall be final in a case:

(*1*) Based on any of the actions set forth in paragraph (h)(1)(ii)(B) of this section,

(*2*) In which the beneficiary's or provider's submission does not raise a genuine dispute over material facts, or

(*3*) In which additional proceedings to determine disputed material facts have been denied on the basis of advice of a responsible Government official that the substantial interests of the Government in pending or contemplated legal or administrative proceedings would be prejudiced.

(B) In a case in which additional proceedings are necessary as to

disputed material facts, the suspending official's decision shall advise the beneficiary or provider that the case has been referred for handling as a hearing under § 199.10 of this part.

(v) A suspension of claims processing may be modified or terminated for reasons such as:

(A) Newly discovered evidence;

(B) Elimination of any of the causes for which the suspension was invoked; or

(C) Other reasons the Director, OCHAMPUS, or a designee, deems appropriate.

(vi) A suspension of claims processing shall be for a temporary period pending the completion of investigation and any ensuing legal or administrative proceedings, unless sooner terminated by the Director, OCHAMPUS, or a designee, or as provided in this subparagraph.

(A) If legal or administrative proceedings are not initiated within 12 months after the date of the suspension notice, the suspension shall be terminated unless the Government official responsible for initiation of the legal or administrative action requests its extension, in which case it may be extended for an additional 6 months. In no event may a suspension extend beyond 18 months, unless legal or administrative proceedings have been initiated during that period.

(B) The Director, OCHAMPUS, or a designee, shall notify the Government official responsible for initiation of the legal or administrative action of the proposed termination of the suspension, at least 30 days before the 12-month period expires, to give the official an opportunity to request an extension.

(2) *Notice of proposed administrative sanction.* (i) A provider shall be notified in writing of the proposed action to exclude, suspend, or terminate the provider's status as an authorized CHAMPUS provider.

(A) The notice shall state which sanction will be taken and the effective date of that sanction as determined in accordance with the provisions of this Part.

(B) The notice shall inform the provider of the situation(s), circumstance(s), or action(s) which form the basis for the proposed sanction and reference the paragraph of this Part under which the administrative action is being taken.

(C) The notice will be sent to the provider's last known business or office address (or home address if there is no known business address.)

(D) The notice shall offer the provider an opportunity to respond within 30 days (or, upon written request received by OCHAMPUS during the 30 days and for good cause shown, within 60 days) from the date on the notice with either:

(*1*) Documentary evidence and written argument contesting the proposed action; or,

(*2*) A written request to present in person evidence or argument to the Director, OCHAMPUS, or a designee. All such presentations shall be made at the Office of the Civilian Health and Medical Program of the Uniformed Services (OCHAMPUS) in Aurora, Colorado, at the provider's own expense.

(3) *Initial determination.* (i) If, after the provider has exhausted, or failed to comply with, the procedures specified in paragraph (h)(2) of this section, the Director, OCHAMPUS, or a designee, decides to invoke an administrative remedy of exclusion, suspension, or termination of a provider under CHAMPUS, written notice of the decision will be sent to the provider by certified mail. Except in those cases where the sanction has a retroactive effective date, the written notice shall be dated no later than 15 days before the decision becomes effective. For terminations under paragraph (f)(2)(ii)(B) of this section, the initial determination may be issued without first implementing or exhausting the procedures specified in paragraph (h)(2) of this section.

(ii) The initial determination shall include:

(A) A statement of the sanction being invoked;

(B) A statement of the effective date of the sanction;

(C) A statement of the facts, circumstances, or actions which form the basis for the sanction and a discussion of any information submitted by the provider relevant to the sanction;

(D) A statement of the factors considered in determining the period of sanction;

(E) The earliest date on which a request for reinstatement under CHAMPUS will be accepted;

(F) The requirements and procedures for reinstatement; and,

(G) Notice of the available hearing upon request of the sanctioned provider.

(4) *Reinstatement procedures.*—(i) *Restitution.* (A) There is no entitlement under CHAMPUS for payment (cost-sharing) of any claim that involves either criminal or civil fraud as defined by law, or fraud or abuse or conflict of interest as defined by this part. In addition, except as specifically provided in this part, there is no entitlement under CHAMPUS for payment (cost-sharing) of any claim for services or supplies furnished by a provider who does not meet the requirements to be an authorized CHAMPUS provider. In any of the situations described above, CHAMPUS payment shall be denied whether the claim is submitted by the provider as a participating claim or by the beneficiary for reimbursement. If an erroneous payment has been issued in any such case, collection of the payment will be processed under § 199.11 of this part.

(B) If the Government has made erroneous payments to a provider because of claims involving fraud, abuse, or conflicts of interest, restitution of the erroneous payments shall be made before a request for reinstatement as a CHAMPUS authorized provider will be considered. Without restitution or resolution of the debt under § 199.11 of this part, a provider shall not be reinstated as an authorized CHAMPUS provider. This is not an appealable issue under § 199.10 of this part.

(C) For purposes of authorization as a CHAMPUS provider, a provider who is excluded or suspended under this § 199.9 and who submits participating claims for services furnished on or after the effective date of the exclusion or suspension is considered to have forfeited or waived any right or entitlement to bill the beneficiary for the care involved in the claims. Similarly, because a provider is expected to know the CHAMPUS requirements for qualification as an authorized provider, any participating provider who fails to meet the qualification requirements for CHAMPUS is considered to have forfeited or waived any right or entitlement to bill the beneficiary for the care involved in the CHAMPUS claims. If, in either situtation, the provider bills the beneficiary, restitution to the beneficiary may be required by the Director, OCHAMPUS, or a designee, as a condition for consideration of reinstatement as a CHAMPUS authorized provider.

(ii) *Terminated providers.* A terminated provider who subsequently achieves the minimum qualifications to be an authorized CHAMPUS provider or who has had his/her license reinstated or the impediment to reinstatement removed by the appropriate licensing jurisdiction may submit a written request for reinstatement under CHAMPUS to the Director, OCHAMPUS, or a designee. If restitution or proper reinstatement of license is not at issue, the Director, OCHAMPUS, or a designee, will process the request for reinstatement under the procedures established for initial requests for authorized CHAMPUS provider status.

(iii) *Providers (other than entities) excluded or suspended under CHAMPUS.* (A) A provider excluded or suspended from CHAMPUS (other than an entity excluded under § 199.9(f)(1)(i)) may seek reinstatement by submitting a written request to the Director, OCHAMPUS, or a designee, any time after the date specified in the notice of exclusion or suspension or any earlier date specified in an appeal decision issued in the provider's appeal under § 199.10 of this part. The request for reinstatement shall include:

(*1*) Documentation sufficient to establish the provider's qualifications under this part to be a CHAMPUS authorized provider;

(*2*) A statement from the provider setting forth the reasons why the provider should be reinstated, accompanied by written statements from professional associates, peer review bodies, and/or probation officers (if appropriate), attesting to their belief that the violations that led to exclusion or suspension will not be repeated.

(B) A provider entity excluded from CHAMPUS under § 199.9(f)(1)(i) may seek reinstatement by submitting a written request to the Director, OCHAMPUS, or a designee, with documentation sufficient to establish the provider's qualifications under this Part to be a CHAMPUS authorized provider and either:

(*1*) Documentation showing the CHAMPUS reinstatement of the excluded individual provider whose conviction led to the CHAMPUS exclusion or suspension of the provider entity; *or*

(*2*) Documentation acceptable to the Director, OCHAMPUS, or a designee, that shows that the individual whose conviction led to the entity's exclusion:

(*i*) Has reduced his or her ownership or control interest in the entity below 5 percent; or

(*ii*) Is no longer an officer, director, agent or managing employee of the entity; or

(*iii*) Continues to maintain a 5 percent or more ownership or control interest in such entity, and that the entity due to circumstances beyond its control, is unable to obtain a divestiture.

Note: Under paragraph (h)(4)(iii)(B)(*2*) of this section, the request for reinstatement may be submitted any time prior to the date specified in the notice of exclusion or suspension or an earlier date specified in the appeal decision issued under § 199.10 of this part.

(*iv*) *Action on request for reinstatement.* In order to reinstate a provider as a CHAMPUS authorized provider, the Director, OCHAMPUS, or a designee, must determine that:

(A) The provider meets all requirements under this part to be an authorized CHAMPUS provider;

(B) No additional criminal, civil, or administrative action has been taken or is being considered which could subject the provider to exclusion, suspension, or termination under this section;

(C) In the case of a provider entity, verification has been made of the divestiture or termination of the owner, controlling party, officer, director, agent or managing employee whose conviction led to the entity's exclusion, *or* that the provider entity should be reinstated because the entity, due to circumstances beyond its control, cannot obtain a divestiture of the 5 percent or more ownership or controlling interest by the convicted party.

(v) *Notice of action on request for reinstatement*—(A) *Notice of approval of request.* If the Director, OCHAMPUS, or a designee, approves the request for reinstatement, he or she will:

(*1*) Give written notice to the sanctioned party specifying the date when the authorized provider status under CHAMPUS may resume; and

(*2*) Give notice to those agencies and groups that were originally notified, in accordance with § 199.9(k), of the imposition of the sanction. General notice may also be given to beneficiaries and other parties as deemed appropriate by the Director, OCHAMPUS, or a designee.

(B) *Notice of denial of request.* If the Director, OCHAMPUS, or a designee, does not approve the request for reinstatement, written notice will be given to the provider. If established procedures for processing initial requests for authorized provider status are used to review the request for reinstatement, the established procedures may be used to provide the notice that the provider does not meet requirements of this part for such status. If the provider continues to be excluded, suspended, or terminated under the provisions of this section, the procedures set forth in this paragraph (h) may be followed in denying the provider's request for reinstatement.

(5) *Reversed or vacated convictions or civil judgments involving CHAMPUS fraud.* (i) If a CHAMPUS provider is excluded or suspended *solely* on the basis of a criminal conviction or civil judgment involving a CHAMPUS fraud and the conviction or judgment is reversed or vacated on appeal, CHAMPUS will void the exclusion of a provider. Such action will not preclude the initiation of additional independent administrative action under this section or any other administrative remedy based on the same facts or events which were the subject of the criminal conviction or civil judgment.

(ii) If an exclusion is voided under paragraph (h)(5)(i) of this section, CHAMPUS will make payment, either to the provider or the beneficiary (if the claim was not a participating claim) for otherwise authorized services under CHAMPUS that are furnished or performed during the period of exclusion.

(iii) CHAMPUS will also void the exclusion of any entity that was excluded under § 199.9(f)(1)(i) based *solely* on an individual's conviction that has been reversed or vacated on appeal.

(iv) When CHAMPUS voids the exclusion of a provider or an entity, notice will be given to the agencies and others that were originally notified, in accordance with § 199.9(k).

(i) *Evidence required for determinations to invoke administrative remedies*—(1) *General.* Any relevant evidence may be used by the Director, OCHAMPUS, or a designee, if it is the type of evidence on which reasonable persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule that might make improper the admission of such evidence over objection in civil or criminal courts.

(2) *Types of evidence.* The types of evidence which the Director, OCHAMPUS, or a designee, may rely on in reaching a determination to invoke administrative remedies under this section include but are not limited to the following:

(i) Results of audits conducted by or on behalf of the Government. Such audits can include the results of 100 percent review of claims and related records or a statistically valid sample audit of the claims or records. A statistical sampling shall constitute *prima facie* evidence of the number and amount of claims and the instances of fraud, abuse, or conflict of interest.

(ii) Reports, including sanction reports, from various sources including a peer review organization (PRO) for the area served by the provider; state or local licensing or certification authorities; peer or medical review consultants of the Government, including consultants for Government contractors; state or local professional societies; or other sources deemed appropriate by the Director, OCHAMPUS, or a designee.

(iii) Orders or documents issued by Federal, state, foreign, or other courts of competent jurisdiction which issue findings and/or criminal convictions or civil judgments involving the provider, and administrative rulings, findings, or

determinations by any agency of the Federal Government, a state, or local licensing or certification authority regarding the provider's status with that agency or authority.

(j) *Suspending Administrative Action.* (1) All or any administrative action may be suspended by the Director, OCHAMPUS, or a designee, pending action in the case by the Department of Defense—Inspector General, Defense Criminal Investigative Service, or the Department of Justice (including the responsible United States Attorney). However, action by the Department of Defense—Inspector General or the Department of Justice, including investigation, criminal prosecution, or civil litigation, does not preclude administrative action by OCHAMPUS.

(2) The normal OCHAMPUS procedure is to suspend action on the administrative process pending an investigation by the Department of Defense—Inspector General or final disposition by the Department of Justice.

(3) Though OCHAMPUS administrative action is taken independently of any action by the Department of Defense-Inspector General or by the Department of Justice, once a case is forwarded to the Department of Defense-Inspector General or the Department of Justice for legal action (criminal or civil), administrative action may be held in abeyance.

(4) In some instances there may be dual jurisdiction between agencies; as in, for example, the joint regulations issued by the Department of Justice and the Government Accounting Office regarding debt collection.

(k) *Notice to Other Agencies.* (1) When CHAMPUS excludes, suspends, or terminates a provider, the Director, OCHAMPUS, or a designee, will notify other appropriate agencies (for example, the Department of Health and Human Services and the state licensing agency that issued the provider's license to practice) that the individual has been excluded, suspended, or terminated as an authorized provider under CHAMPUS. An exclusion, suspension, or termination action is considered a public record. Such notice can include the notices and determinations sent to the suspended provider and other public documents such as testimony given at a hearing or exhibits or depositions given in a lawsuit or hearing. Notice may also be given to Uniformed Services Military Treatment Facilities, Health Benefit Advisors, beneficiaries and sponsors, the news media, and institutional providers if inpatient care was involved.

(2) If CHAMPUS has temporarily suspended claims processing, notice of such action normally will be given to the affected provider and Uniformed Services Medical Treatment Facilities, Health Benefits Advisors, beneficiaries, and sponsors. Notice may also be given to any information or news media and any other individual, professional provider, or institutional provider, as deemed appropriate. However, since a "temporary suspension of claims processing" is by definition not a final or formal agency action, the basis for the action generally will not be disclosed. It is noted that the basis for the action can be a result of questions arising from routine audits to investigation of possible criminal violations.

(l) *Compromise, Settlement, and Resolution Authority.* (1) In lieu of invoking any remedy provided by this Section, the Director, OCHAMPUS, or a designee, may elect to enter into an agreement with the provider intended to correct the situation within an established time period and subject to any remedies deemed appropriate by the Director, OCHAMPUS, or a designee.

(2) When it is in the best interest of CHAMPUS, the Director, OCHAMPUS, has the discretionary authority to waive an action or enter into compromise or settlement of administrative actions taken under this § 199.9.

* * * * *

6. Section 199.10 is amended by revising paragraph (a), paragraphs (a)(1)(i)(A), (a)(1)(i)(B), (a)(1)(i)(C), and (a)(1)(ii); redesignating previous (a)(2)(i)(B) through (a)(2)(i)(D) as (a)(2)(i)(C) through (a)(2)(i)(E); adding new paragraph (a)(2)(i)(B); revising paragraph (a)(3); redesignating previous paragraphs (a)(4) through (a)(7) as paragraphs (a)(5) through (a)(8); adding new paragraph (a)(4); revising (a)(5), revising paragraphs (a)(6)(iv)(A) and (a)(6)(iv)(C); adding new paragraph (a)(6)(v); revising paragraphs (a)(7)(iii), (a)(7)(iv)(C), (a)(8)(i)(A), and (a)(8)(ii)(A); by adding a new paragraph (a)(9); by revising paragraphs (b), (b)(1)(i), (b)(1)(ii), (b)(1)(iv), (b)(2), (b)(3), (b)(4) introductory text, (c), (c)(2), (c)(5)(i) and (ii), (d), (d)(1)(i), (d)(1)(iii), (d)(2), (d)(9)(iii)(A), (d)(9)(iv)(C) and (d)(9)(iv)(D); by removing paragraphs (d)(10)(ii) and (d)(10)(iv); by adding a new paragraph (d)(10)(ii); by removing paragraph (d)(11)(iii); and by redesignating the previous paragraphs (d)(11)(iv), (d)(11)(v), (d)(11)(vi), (d)(11)(vii), (d)(11)(viii), (d)(11)(ix), (d)(11)(x), (d)(11)(xi), (d)(11)(xii), and (d)(11)(xiii) as subparagraphs (d)(11)(iii), (d)(11)(iv), (d)(11)(v), (d)(11)(vi), (d)(11)(vii), (d)(11)(viii), (d)(11)(ix), (d)(11)(x) (revising paragraph (d)(11)(x)(A)), and the heading of (d)(11)(xi).

§ 199.10 Appeal and hearing procedures.

(a) *General.* This Section sets forth the policies and procedures for appealing decisions made by OCHAMPUS, OCHAMPUSEUR, and CHAMPUS contractors adversely affecting the rights and liabilities of CHAMPUS beneficiaries, CHAMPUS participating providers, and providers denied the status of authorized provider under CHAMPUS. An appeal under CHAMPUS is an administrative review of program determinations made under the provisions of law and regulation. An appeal cannot challenge the propriety, equity, or legality of any provision of law or regulation.

(1) * * *

(i) * * *

(A) OCHAMPUS, OCHAMPUSEUR, and CHAMPUS contractors shall mail notices of initial determinations to the affected provider or CHAMPUS beneficiary (or representative) at the last known address. For beneficiaries who are under 18 years of age or who are incompetent, a notice issued to the parent, guardian, or other representative, under established CHAMPUS procedures, constitutes notice to the beneficiary.

(B) CHAMPUS contractors and OCHAMPUSEUR shall notify a provider of an initial determination on a claim only if the provider participated in the claim. (See § 199.7 of this part.)

(C) Notice of an initial determination on a claim processed by a CHAMPUS contractor or OCHAMPUSEUR normally will be made on a CHAMPUS Explanation of Benefits (CEOB) form.

(D) * * *

(E) * * *

(ii) *Effect of initial determination.* The initial determination is final, unless appealed in accordance with this Section, or unless the initial determination is reopened by OCHAMPUS or the CHAMPUS contractor.

(2) * * *

(i) * * *

(B) A beneficiary who has an interest in receiving care or has received care from a particular provider cannot be an appealing party regarding the exclusion, suspension, or termination of the provider under § 199.9 of this part.

* * * * *

(3) *Burden of proof.* The burden of proof is on the appealing party to establish affirmatively by substantial evidence the appealing party's entitlement under law and this part to

the authorization of CHAMPUS benefits, approval of authorized CHAMPUS provider status, or removal of sanctions imposed under § 199.9 of this part. If a presumption exists under the provisions of this part or information constitutes *prima facie* evidence under the provisions of this part, the appealing party must produce evidence reasonably sufficient to rebut the presumption or *prima facie* evidence as part of the appealing party's burden of proof. CHAMPUS shall not pay any part of the cost or fee, including attorney fees, associated with producing or submitting evidence in support of an appeal.

(4) *Evidence in appeal and hearing cases.* Any relevant evidence may be used in the administrative appeal and hearing process if it is the type of evidence on which reasonable persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule that might make improper the admission of such evidence over objection in civil or criminal courts.

(5) *Late filing.* If a request for reconsideration, formal review, or hearings is filed after the time permitted in this section, written notice shall be issued denying the request. Late filing may be permitted only if the appealing party reasonably can demonstrate to the satisfaction of the Director, OCHAMPUS, or a designee, that the timely filing of the request was not feasible due to extraordinary circumstances over which the appealing party had no practical control. Each request for an exception to the filing requirement will be considered on its own merits. The decision of the Director, OCHAMPUS, or a designee, on the request for an exception to the filing requirement shall be final.

(6) *Appealable issue.* * * *

(i) * * *

(iv) * * *

(A) Determination of a person's eligibility as a CHAMPUS beneficiary is the responsibility of the appropriate Uniformed Service. Although OCHAMPUS, OCHAMPUSEUR, and CHAMPUS contractors must make determinations concerning a beneficiary's eligibility in order to ensure proper disbursement of appropriated funds on each CHAMPUS claim processed, ultimate responsibility for resolving a beneficiary's eligibility rests with the Uniformed Services. Accordingly, disputed question of fact concerning a beneficiary's eligibility will not be considered an appealable issue under the provisions of this section, but shall be resolved in accordance with § 199.3 of this part.

* * * * *

(C) Any sanction, including the period of the sanction, imposed under § 199.9 of this part which is based solely on a provider's exclusion or suspension by another agency of the Federal Government, a state, or a local licensing authority is not appealable under this section. The provider must exhaust administrative appeal rights offered by the other agency that made the initial determination to exclude or suspend the provider. Similarly, any sanction imposed under § 199.9 which is based solely on a criminal conviction or civil judgment against the provider is not appealable under this section. If the sanction imposed under § 199.9 is not based solely on the provider's criminal conviction or civil judgment or on the provider's exclusion or suspension by another agency of the Federal Government, a state, or a local licensing authority, that portion of the CHAMPUS administrative determination which is in addition to the criminal conviction/civil judgment or exclusion/suspension by the other agency may be appealed under this section.

(v) A decision by the Director, OCHAMPUS, or a designee, as a suspending official when the decision is final under the provisions of § 199.9(h)(1)(iv)(A).

(7) *Amount in dispute.* * * *

(iii) There is no requirement for an amount in dispute when the appealable issue involves a denial of a provider's request for approval as an authorized CHAMPUS provider or the determination to exclude, suspend, or terminate a provider's authorized CHAMPUS provider status.

(iv) * * *

(C) At least one of the claims so combined has had a reconsideration decision issued by OCHAMPUSEUR or a CHAMPUS contractor.

Note: A request for administrative review under this appeal process which involves a dispute regarding a requirement of law or regulation (paragraph (a)(6)(i) of this section) or does not involve a sufficient amount in dispute (paragraph (a)(7) of this section) may not be rejected at the reconsideration level of appeal. However, an appeal shall involve an appealable issue and sufficient amount in dispute under these paragraphs to be granted a formal review or hearing.

(8) *Levels of appeal.* The sequence and procedures of a CHAMPUS appeal vary, depending on whether the initial determination was made by OCHAMPUS, OCHAMPUSEUR, or a CHAMPUS contractor.

(i) *Appeal levels for initial determination made by OCHAMPUSEUR or CHAMPUS contractor.*

(A) Reconsideration by OCHAMPUSEUR or CHAMPUS contractor.

* * * * *

(C) * * *

(ii) * * *

(A) Formal review by OCHAMPUS *except* (*1*) initial determinations involving the suspension of claims processing where the Director, OCHAMPUS, or a designee, determines that additional proceedings are necessary as to disputed material facts and the suspending official's decision is not final under the provisions of § 199.9(h)(1)(iv)(A) or (*2*) initial determinations involving the sanctioning (exclusion, suspension, or termination) of CHAMPUS providers. Initial determinations involving these matters shall be appealed directly to the hearing level.

(B) Hearing.

(9) *Appeal decision.* An appeal decision at any level may address all pertinent issues which arise under the appeal or are otherwise presented by the information in the case record (for example, the entire episode of care in the appeal), and shall not be limited to addressing the specific issue appealed by a party. In the case of sanctions imposed under § 199.9, the final decision may affirm, increase or reduce the sanction period imposed by CHAMPUS, or otherwise modify or reverse the imposition of the sanction.

(b) *Reconsideration.* Any party to the initial determination made by OCHAMPUSEUR or the CHAMPUS contractor may request a reconsideration.

(1) * * *

(i) *Written request required.* The request must be in writing, shall state the specific matter in dispute, and shall include a copy of the notice of initial determination made by OCHAMPUSEUR or the CHAMPUS contractor such as the CEOB form.

(ii) *Where to file.* The request shall be submitted to the office that made the initial determination (i.e., OCHAMPUSEUR or the CHAMPUS contractor) or any other CHAMPUS contractor designated in the notice of initial determination.

* * * * *

(iv) *Official filing date.* A request for a reconsideration shall be deemed filed on the date it is mailed and postmarked. If the request does not have a postmark, it shall be deemed filed on the date received by OCHAMPUSEUR or the CHAMPUS contractor.

(2) *The reconsideration process.* The purpose of the reconsideration is to determine whether the initial determination was made in accordance with law, regulation, policies, and guidelines in effect at the time the care was provided or requested, or at the time of the initial determination and/or reconsideration decision involving a provider request for approval as an authorized provider under CHAMPUS. The reconsideration is performed by a member of the OCHAMPUSEUR or CHAMPUS contractor staff who was not involved in making the initial determination and is a thorough and independent review of the case. The reconsideration is based on the information submitted that led to the initial determination, plus any additional information that the appealing party may submit or OCHAMPUSEUR or the CHAMPUS contractor may obtain.

(3) *Timeliness of reconsideration determination.* OCHAMPUSEUR or the CHAMPUS contractor normally shall issue its reconsideration determination no later than 60 days from the date of receipt of the request for reconsideration by OCHAMPUSEUR or the CHAMPUS contractor.

(4) *Notice of reconsideration determination.* OCHAMPUSEUR or the CHAMPUS contractor shall issue a written notice of the reconsideration determination to the appealing party at his or her last known address. The notice of the reconsideration determination must contain the following elements:

* * * * *

(v) * * *

(5) * * *

(c) *Formal Review.* Any party to the initial determination may request a formal review by OCHAMPUS if the party is dissatisfied with the reconsideration determination and the reconsideration determination is not final under the provisions of paragraph (b)(5) of this section. Any party to the initial determination made by OCHAMPUS may request a formal review by OCHAMPUS if the the party is dissatisfied with the initial determination *except* for a party to an initial determination involving the exclusion, suspension, or termination of authorized CHAMPUS provider status, and a written decision issued pursuant to § 199.9(h)(1)(iv)(A) involving the temporary suspension of claims processing. A hearing, but not a formal review level of appeal, may be available to a party to an initial determination involving the sanctioning of a provider or to a party to a written decision involving a temporary suspension of claims processing.

* * * * *

(2) *The formal review process.* The purpose of the formal review is to determine whether the initial determination or reconsideration determination was made in accordance with law, regulation, policies, and guidelines in effect at the time the care was provided or requested or at the time of the initial determination, reconsideration, or formal review decision involving a provider request for approval as an authorized CHAMPUS provider. The formal review is performed by the Chief, Appeals and Hearings, OCHAMPUS, or a designee, and is a thorough review of the case. The formal review determination shall be based on the information upon which the initial determination or reconsideration determination was based, and any additional information the appealing party may submit or OCHAMPUS may obtain.

* * * * *

(5) * * *

(i) The issue is not appealable. (See paragraph (a)(6) of this section).

(ii) The amount in dispute is less than $300. (See paragraph (a)(7) of this section).

(iii) * * *

(d) *Hearing.* Any party to the initial determination may request a hearing if the party is dissatisfied with the formal review determination and the formal review determination is not final under the provisions of paragraph (c)(5), of this section, *or* the initial determination involves the sanctioning of a provider under § 199.9 of this part and involves an appealable issue.

(1) * * *

(i) *Written request required.* The request shall be in writing, state the specific matter in dispute, include a copy of the appropriate initial determination or formal review determination being appealed, and include any additional information or documents not submitted previously.

* * * * *

(iii) *Allowed time to file.* The request shall be mailed within 60 days after the date of the notice of the initial determination or formal review determination being appealed.

* * * * *

(2) *Hearing process.* A hearing is an administrative proceeding in which facts relevant to the appealable issue(s) in the case are presented and evaluated in relation to applicable law, regulation, policies, and guidelines in effect at the time the care in dispute was provided or requested; at the time of the initial determination, formal review determination, or hearing decision involving a provider request for approval under CHAMPUS as an authorized provider; or at the time of the act or event which is the basis for the imposition of sanctions under this part. A hearing, except for an appeal involving a provider sanction, generally shall be conducted as a nonadversary, administrative proceeding. However, an authorized party to any hearing, including CHAMPUS, may submit additional evidence or testimony relevant to the appealable issue(s) and may appoint a representative, including legal counsel, to participate in the hearing process.

* * * * *

(9) * * *

(iii) * * *

(A) An appealing party shall be deemed to have abandoned a request for hearing, other than when personal appearance is waived in accordance with § 199.10(d)(11)(xii), if neither the appealing party nor an appointed representative appears at the time and place fixed for the hearing and if, within 10 days after the mailing of a notice by certified mail to the appealing party by the hearing officer to show cause, such party does not show good and sufficient cause for such failure to appear and failure to notify the hearing officer before the time fixed for hearing that an appearance could not be made.

* * * * *

(iv) * * *

(C) When the issue is not appealable (see § 199.10(a)(6)).

(D) When the amount in dispute is less than $300 (see § 199.10(a)(7)).

* * * * *

(10) *Preparation for hearing.* * * *

(ii) *Discovery.* Upon the written request of a party to the initial determination (including OCHAMPUS) and for good cause shown, the hearing officer will allow that party to inspect and copy all documents, unless privileged, relevant to issues in the proceeding that are in the possession or control of the other party participating in the appeal. The written request shall state clearly what information and documents are required for inspection and the relevance of the documents to the issues in the proceeding. Depositions, interrogatories, requests for admissions, and other forms of prehearing discovery are generally not authorized and the Department of Defense does not have subpoena authority for purposes of administrative hearings under this Section. If the hearing officer finds that good cause

exists for taking a deposition or interrogatory, the expense shall be assessed to the requesting party, with copies furnished to the hearing officer and the other party or parties to the hearing.

* * * * *

(11) *Conduct of hearing.* * * *

(iii) *Taking of evidence.* * * *

(iv) *Questioning and admission of evidence.* * * *

(v) *Relevant evidence.* * * *

(vi) *CHAMPUS determination first.* * * *

(vii) *Testimony.* * * *

(viii) *Oral argument and briefs.* * * *

(ix) *Continuance of hearing.* * * *

(x) *Continuance for additional evidence.* * * *

(A) *Continue hearing.* The hearing may be continued to a later date in accordance with § 199.10(d)(11)(ix), above.

* * * * *

(xi) *Transcript of hearing.* * * *

(xii) *Waiver of right to appear and present evidence.* * * *

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

June 1, 1989.

[FR Doc. 89-13438 Filed 6-13-89; 8:45 am]

BILLING CODE 3810-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52, 65, and 67

[FRL-3451-8]

Air Program; Technical Amendments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This document removes outdated compliance data, reserved space, and reference material available from the Agency contained in 40 CFR Parts 52, 65, and 67. Removal of this material from the air program regulations is nonsubstantive in nature, and is designed to improve the cost effectiveness and useability of the regulations under these designated Parts.

EFFECTIVE DATE: June 14, 1989.

FOR FURTHER INFORMATION CONTACT: John B. Rasnic, Office of Air Quality Planning and Standards, Environmental Protection Agency, Room 3202, 401 M St., SW., Washington, DC 20460, Telephone: (202) 382-2826.

SUPPLEMENTARY INFORMATION: EPA, in an effort to improve the effectiveness and useability of regulations currently contained in 40 CFR Parts 52, 65, and 67, is removing certain material contained in these parts.

Under 40 CFR Part 52, outdated compliance entries are being removed from the compliance schedules under each State. The entries being removed remain listed in the State Implementation Plan; however, only compliance dates since January 1, 1982, remain in the listings in these sections.

Under 40 CFR Part 65, all reserved subparts and sections containing regulatory text in the State listings, that do not currently apply to a specific firm, are being removed. This will provide easier access to the actual regulations in force.

Under 40 CFR Part 67, the Appendices which are guidance documents that no longer need to appear in the the Code of Federal Regulations, are being removed, and the regulatory text is being amended to provide availability information for those who may wish copies in the future.

This action is non-substantive in nature, therefore no notice and comment is necessary.

Regulatory Review Requirements

A. Executive Order 12291

Under E.O. 12291, issued February 17, 1981, EPA must judge whether a rule is a major rule and, therefore, subject to the requirement that a Regulatory Impact Analysis be prepared. EPA has determined that this rule is not a major rule as the term is defined in section 1(b) of E.O. 12291.

B. Regulatory Flexibility Act

Under section 605(b) of the Regulatory Flexibility Act, the Administrator may certify that a rule will not, if promulgated, have a significant impact on a substantial number of small entities, and therefore does not require a regulatory flexibility analysis. Since no negative economic effect is expected upon any business entity from the promulgation of this rule, I certify that this rule will not have a significant economic impact on small entities.

C. Paperwork Reduction Act

EPA has determined that the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq., does not apply to this final rule since no information collection or recordkeeping requirements are involved.

List of Subjects in 40 CFR Parts 52, 65, and 67

Air pollution controls, Carbon monoxide, Lead, Nitrogen dioxide, Ozone, Particulate matter, Penalties, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: March 31, 1989.

William K. Reilly,

Administrator.

Therefore, 40 CFR Chapter I is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401-7642.

§§ 52.55, 52.429, 52.1023, 52.1080, 52.1125, 52.1274, 52.1383, 52.1830, 52.2036, 52.2077, 52.2123 and 52.2376 [Removed]

2. Sections 52.55, 52.429, 52.1023, 52.1080, 52.1125, 52.1274, 52.1383, 52.1830, 52.2036, 52.2077, 52.2123, and 52.2376 are removed.

§§ 52.84, 52.134, 52.240, 52.524, 52.576, 52.626, 52.677, 52.730, 52.778, 52.876, 52.927, 52.980, 52.1482, 52.1577, 52.1975, 52.2223, 52.2435, 52.2481, 52.2524 and 52.2578 [Amended]

3. Sections 52.84(b), 52.134(b), 52.240 (e) and (f)(1), 52.524(c), 52.576(a), 52.626(a), 52.677(b), 52.730(c), 52.778(c), 52.876(c)(1), 52.927(c), 52.980 (a) and (b), 52.1482(b), 52.1577(e), 52.1975(b), 52.2223(c), 52.2435(a), 52.2481(b), 52.2524 (c) and 52.2578(d) are removed and reserved where appropriate.

§ 52.825 [Amended]

4. Section 52.825 is amended in the table by removing all but the last two entries in the table.

§ 52.1175 [Amended]

5. Section 52.1175(e) is amended in the table as follows:

a. Remove the entries for Allegan, Alpena, Baraga, Eaton, Emmet, Huron, Ingham, Ionia, Marquette, Oakland, Otsego, Ottawa and St. Clair Counties.

b. Under Charlevoix County remove the entries for the "East Jordan Iron Works, Inc." and the "Medusa Cement Co."

c. Under Genessee County remove both entries for "GMC".

d. Under Macomb County remove the entry for "Ford Motor Co."

e. Under Midland County remove the first entry for "Dow Chemical" and the entry for "Dow Building 830".

f. Under Monroe County remove the entries for "Consolidated Packing Corp. Boiler 8," "Detroit Edison (Monroe Plant) Units 1-4," and the second entry for the "Dundee Cement Company".

g. Under Muskegon County remove the entry for "Tech-Cast, Inc."

h. Under Saginaw County remove the entry for "GMC".

6. Section 52.1335 is amended by revising the table in paragraph (a) to read as follows:

§ 52.1335 Compliance schedules.

(a) * * *

MISSOURI

Source	Location	Regulation involved	Adopted date	Effective date	Final compliance date
Pilot Knob Pelleting Co	Pilot Knob, MO	V(10 CSR 10-3.050)	Oct. 19, 1977	Immediately	Dec. 31, 1982.
Union Electric Labadie power plant	Labadie, MO	10 CSR 10-5.090 and 10 CSR 10-5.030.	June 20, 1979	July 20, 1979	Mar. 1, 1984.
St. Joe Minerals Corp., Pea Ridge Iron Ore Facility.	Washington County, MO.	10 CSR 10-3.050	Mar. 23, 1983	Mar. 23, 1983	Dec. 31, 1988.
St. Joe Minerals Corp., Pea Ridge Iron Ore Facility.	do	do	Apr. 22, 1981	Dec. 28, 1981	July 1, 1985.
Associated Electric Cooperative, Inc., Thomas Hill Power Plant—Unit 1.	Randolph County, MO	10 CSR 10-3.060 and 10 CSR 10-3.060.	June 17, 1981	Jan. 12, 1982	June 1, 1984.
American Oil Co. (AMOCO)	Sugar Creek, MO	10 CSR 10-2.260	Feb. 18, 1981	Oct. 1, 1981	June 1, 1982.
St. Joe Lead Co	Herculaneum, MO	§ 203.050.1(5) RSM01978	Aug. 15, 1980	Immediately	Oct. 27, 1984.
AMAX Lead Co	Boss, MO	do	do	do	Apr. 27, 1985.
*	*	*	*	*	*

§ 52.1425 [Amended]

7. Section 52.1425 is amended by removing all but the last entry in the table in paragraph (a).

§ 52.1524 [Amended]

8. Section 52.1524 is amended by removing all but the last entry in the table in paragraph (a).

§ 52.1626 [Amended]

9. Section 52.1626(b) is amended by removing all the entries in the table, except the entries for "DUVAL Corp." and "Int'l Minerals and Chem. Corp.," under Eddy County.

PART 65—DELAYED COMPLIANCE ORDERS

10. The authority citation for Part 65 continues to read as follows:

Authority: Secs. 113 and 301 of the Clean Air Act, as amended, 42 U.S.C. 7413 and 7601.

Subparts B, C, E, F, G, H, I, J, M, N, P, Q, R, S, U, Y, Z, BB, CC, DD, EE, GG, HH, II, JJ, LL, MM, OO, PP, QQ, TT, UU, XX, ZZ, BBB, CCC, DDD and EEE [Removed and Reserved]

11. Subparts B, C, E, F, G, H, I, J, M, N, P, Q, R, S, U, Y, Z, BB, CC, DD, EE, GG, HH, II, JJ, LL, MM, OO, PP, QQ, TT, UU, XX, ZZ, BBB, CCC, DDD and EEE are removed and reserved.

§§ 65.71, 65.72, 65.140, 65.142, 65.151, 65.152, 65.181, 65.182, 65.230, 65.232, 65.251, 65.252, 65.261, 65.262, 65.300, 65.302, 65.351, 65.352, 65.401, 65.402, 65.430, 65.432, 65.470, 65.472, 65.480, 65.482, 65.511, 65.512, 65.520, 65.522, 65.541, 65.542, 65.561 and 65.562 [Removed]

12. Sections 65.71, 65.72, 65.140, 65.142, 65.151, 65.152, 65.181, 65.182, 65.230, 65.232, 65.251, 65.252, 65.261, 65.262, 65.300, 65.302, 65.351, 65.352, 65.401, 65.402, 65.430, 65.432, 65.470, 65.472, 65.480, 65.482, 65.511, 65.512, 65.520, 65.522, 65.541, 65.542, 65.561 and 65.562 are removed.

PART 67—EPA APPROVAL OF STATE NONCOMPLIANCE PENALTY PROGRAM

13. The authority citation for Part 67 continues to read as follows:

Authority: Sec. 120 of the Clean Air Act, as amended, 42 U.S.C. 7420.

14. Section 67.11 is amended by revising paragraph (b)(3) to read as follows:

§ 67.11 Standards for approval of State programs.

* * * * *

(b) * * *

(3) A capability to carry out the financial analysis and procedures specified in these regulations and the Technical Support Document, Instruction Manual, and related Computer Program, available from the Director of Stationary Source Compliance Division, EN-341, 401 M Street, NW., Washington, DC 20460, together with adequate provision for maintaining such capability. Such capability may be provided by trained State personnel or through qualified contractors;

* * * * *

15. Appendices A, B and C are revised to read as follows:

Appendix A—Technical Support Document

Note: EPA will make copies of Appendix A available from: Director, Stationary Source Compliance Division, EN-341, 401 M Street, SW., Washington, DC 20460.

Appendix B—Instruction Manual

Note: EPA will make copies of Appendix B available from: Director, Stationary Source Compliance Division, EN-341, 401 M Street, SW., Washington, DC 20460.

Appendix C—Computer Program

Note: EPA will make copies of Appendix C available from: Director, Stationary Source Compliance Division, EN-341, 401 M Street SW., Washington, DC 20460.

[FR Doc. 89-14082 Filed 6-13-89; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are determined for the communities listed below.

The base (100-year) flood elevations are the basis for the floodplain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM) showing base (100-year) flood elevations, for the community. This date may be obtained by contacting the office where the maps are available for inspection indicated on the table below.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: John L. Matticks, Chief, Risk Studies Division, Federal Insurance Administration, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2767.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the final determinations of flood elevations for each community listed. Proposed base flood elevations or proposed modified base flood elevations have been published in the **Federal Register** for each community listed.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR Part 67. An opportunity for the community or individuals to appeal proposed determination to or through the community for a period of ninety (90) days has been provided.

The Agency has developed criteria for floodplain management in flood-prone areas in accordance with 44 CFR Part 60.

Pursuant to the provisions of 5 USC 605(b), the Administrator, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies for reasons set out in the proposed rule that the final flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. Also, this rule is not a major rule under terms of Executive Order 12291, so no regulatory analyses have been prepared. It does not involve any collection of information for purposes of the Paperwork Reduction Act.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

PART 67—[AMENDED]

The authority citation for Part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq., Reorganization Plan No. 3 of 1978, E.O. 12127.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and Flood Insurance Rate Map available at the address cited below for each community.

The base (100-year) flood elevations are finalized in the communities listed below. Elevations at selected locations in each community are shown. No appeal was made during the ninety-day period and the proposed base flood elevations have not been changed.

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
ALABAMA	
Houston County (unincorporated areas) (FEMA docket No. 6946)	
Choctawhatchee River:	
Just upstream of U.S. Highway 84	*141
At confluence of Little Choctawhatchee River	*146
Little Choctawhatchee River:	
At confluence with Choctawhatchee River	*146
About 1.2 miles upstream of Brannon Stand Road	*219
Newton Creek:	
About 1,700 feet upstream of U.S. Highway 84	*206
About 3,700 feet upstream of U.S. Highway 84	*208
Beaver Creek:	
About 300 feet upstream of Brannon Stand Road	*221
About 2.3 miles upstream of Brannon Stand Road	*239
Limestone Creek:	
Just upstream of State Highway 109	*170
About 1.7 miles upstream of State Highway 203	*225
Chipola Creek:	
At mouth	*174
Just downstream of County Road	*238
Cowarts Creek:	
Just downstream of County Highway 55	*161
About 1.1 miles upstream of County Highway 24	*204
Maps available for inspection at the County Courthouse, Dothan, Alabama.	
St. Clair County (unincorporated areas) (FEMA docket No. 6946)	
Coosa River:	
At county boundary	*418
Just downstream of Logan Martin Dam	*428
Just upstream of Logan Martin Dam	*476
Just downstream of H. Neely Henry Dam	*493
Just upstream of H. Neely Henry Dam	*508
At county boundary	*510
West Branch Fishing Creek:	
Just downstream of Pleasant Valley Road	*518
About 0.76 mile upstream of Pleasant Valley Road	*536
Little Cahaba River:	
About 1.5 mile downstream of County Road 10	*653
About 0.85 mile downstream of County Road 10	*656
Cahaba River:	
About 1,000 feet downstream of county boundary	*579
At county boundary (upstream crossing)	*593
Beaver Creek:	
Just upstream of U.S. Highway 231	*607
About 1,500 feet upstream of County Road 30	*696
Big Canoe Creek:	
Just upstream of Double Bridge Road	*548
About 1.25 mile upstream of Pinedale Road	*556
Maps available for inspection at the County Courthouse, Asheville, Alabama.	
ARIZONA	
Cave Creek (town), Maricopa County (FEMA Docket No. 6941 and 6948)	
Cave Creek:	
At Carefree Highway	*1,869
At confluence with Andora Hills Wash	*2,007
At confluence with Willow Springs Wash	*2,057
Approximately 300 feet upstream of Cahava Ranch Road	*2,137
Andora Hills Wash:	
At confluence with Cave Creek	*2,007
Approximately 0.15 mile downstream of Grapevine Road	*2,074
Approximately 50 feet upstream of Basin Road	*2,143
Approximately 400 feet upstream of Piedra Grand Road	*2,277
Galloway Wash:	
At confluence with Cave Creek	*2,030
Approximately 60 feet downstream of School House Road	*2,170

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Approximately 170 feet downstream of Scopa Trail	*2,310
Rowe Wash:	
At confluence with Galloway Wash	*2,111
Approximately 100 feet downstream of School House Road	*2,175
Approximately 1,730 feet upstream of Echo Canyon Road	*2,315
Grapevine Wash:	
At confluence with Galloway Wash	*2,180
Approximately 2,250 feet upstream of confluence with Galloway Wash	*2,227
Approximately 5,230 feet upstream of confluence with Galloway Wash	*2,297
Octillo Wash:	
At confluence with Cave Creek	*2,039
Approximately 50 feet upstream of Spur Cross Road	*2,117
Approximately 900 feet upstream of Lone Mountain Road	*2,244
Willow Spring Wash:	
At confluence with Cave Creek	*2,057
Approximately 50 feet downstream of Spur Cross Road	*2,135
Approximately 2,900 feet upstream of Spur Cross Road	*2,188
Maps are available for review at Town Hall, 37622 North Cave Creek Road, Cave Creek, Arizona.	
Maricopa County (unincorporated areas), (FEMA Docket No. 6932)	
Sols Walsh:	
Approximately 50 feet downstream of Vulture Mine Road	*2,165
At Atchison, Topeka and Santa Fe Railway in Section 32, T. 8 N., R. 5 W	*2,235
Approximately 1.5 miles upstream of Atchison, Topeka and Santa Fe Railway in Section 32, T.8N., R.5W.	*2,292
At Yavapai-Maricopa County boundary in Section 35, T. 8 N., R. 6 W	*2,386
Maps are available for review at the Flood Control District of Maricopa County, 3335 West Durango, Phoenix, Arizona.	
Pima County (unincorporated areas) (FEMA Docket No. 6903)	
Alamo Wash:	
3,330 feet north of the intersection of Swan Road and East Fort Lowell Road	*2,412
200 feet north of the intersection of East Fort Lowell Road and Swan Road	*2,424
700 feet east of the intersection of Arcadia Boulevard and East Fort Lowell Road	*2,432
Alvernon Wash:	
150 feet east from a point 150 feet north of the intersection of Kleindale Road and Alvernon Way	*2,390
200 feet north of the intersection of Alvernon Way and East Fort Lowell Road	*2,405
At the intersection of Alvernon Way and East Fort Lowell Road	*2,410
Black Wash:	
At the intersection of Valencia Road and Camino Verde Boulevard	#1
At the intersection of Valencia Road and Unnamed Road 1,900 feet east of the intersection of Valencia Road and Camino Verde Boulevard	#3
Canada Del Oro Wash:	
650 feet south of the intersection of Overton Road and Verch Way	*2,386
At the center of the Braided Channel, just downstream of La Canada Drive	*2,433
2,900 feet due west from the confluence of Sutherland Wash with Canada Del Oro Wash	*2,658
Christmas Wash:	
At the intersection of the wash and Roger Road	*2,351
East Embankment of the Southern Pacific Railroad:	

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Just north of a point 4,000 feet northwest along the railroad from a point where Hardin Road (extended) would intersect	*1,947
Approximately 200 feet southeast along the railroad from the El Camino De Manana Crossing	*2,123
1,550 feet northwest along the railroad from the northwest end of the railroad bridge over the Canada Del Oro Wash	*2,215
Esperero Wash:	
At the confluence of Esperero Wash with Ventana Canyon Wash	*2,667
Just upstream of Sunrise Drive	*2,723
500 feet south of a point 150 feet west of the northeast corner of the northwest quarter of Section 8, Township 13 South, Range 15 East	*2,877
Rillito Creek:	
Approximately 500 feet upstream of El Camino De La Tiera	*2,229
340 feet west of a point 760 feet north of the intersection of Rillito Lane and Elisa Avenue	*2,297
2,530 feet east of a point 280 feet north of the intersection of Westmore Road and North 1st Avenue	*2,329
Robb Wash:	
500 feet upstream from the confluence with Tanque Verde Creek	*2,521
Just downstream of Wrightstown Road	*2,529
At the intersection of the wash and Pima Street	*2,549
Ventana Canyon Wash:	
100 feet downstream of Riverbend Circle	*2,471
Just upstream of River Road	*2,506
Just upstream of Sunrise Drive	*2,731
500 feet east of a point 500 feet north of the southwest quarter of Section 6, Township 13 South, Range 15 East	*3,108
Tortolita Alluvial Fans:	
Cottonwood Canyon:	
Approximately 2,000 feet west of the northeast corner of Section 23, Township 11 South, Range 11 East	#3
The northwest corner of Section 7, Township 11 South, Range 12 East	#4
Cochie Canyon West:	
The northwest corner of Section 17, Township 11 South, Range 12 East	#1
2,000 feet west of the southeast corner of Section 8, Township 11 South, Range 12 East	#2
In the wash approximately 500 feet west of the center of Section 9, Township 11 South, Range 12 East	#3
Cochie Canyon East:	
At the center of Section 20, Township 11 South, Range 12 East	#2
In the wash approximately 1,000 feet east of the northwest corner of the southwest quarter, Section 16, Township 11 South, Range 12 East	#3
In the wash approximately 1,000 feet south and 500 feet west of the center of the boundary between Sections 9 and 16, Township 11 South, Range 12 East	#4
Unnamed Canyon:	
The southwest corner of the southeast quarter, Section 16, Township 11 South, Range 12 East	#1
In the wash at the mountain front, approximately 2,000 feet north-northwest of the center of Section 15, Township 11 South, Range 12 East	#2
Wild Burro Canyon:	
Approximately 500 feet east of the northwest corner of Section 28, Township 11 South, Range 12 East	#1
The northeast corner of Section 28, Township 11 South, Range 12 East	#2
In the wash in the center of Section 14, Township 11 South, Range 12 East	#3
Ruelas Canyon:	
At the corner of Sections 33 and 34, Township 11 South, Range 12 East and Sections 3 and 4, Township 12 South, Range 12 East	#1

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
At the northwest corner of Section 26, Township 11 South, Range 12 East	#2
In the wash, at the center of Section 24, Township 11 South, Range 12 East	#3
Prospect Canyon:	
At the corner of Sections 3, 4, 9, and 10, Township 12 South, Range 12 East	#1
Tangerine Road, at the corner of Sections 34 and 35, Township 11 South, Range 12 East and Sections 2 and 3, Township 12 South, Range 12 East	#2
Tangerine Road, at the center of the boundary between Section 35, Township 11 South, Range 12 East, and Section 2, Township 12 South, Range 12 East	#3
Canada Agua West:	
On El Camino Road approximately 1 mile southwest of the intersection of El Camino Road and Tangerine Road	#1
On Tortilita Road approximately 200 feet west of the intersection of Thornydale Road and Tortilita Road	#2
Canada Agua East:	
At the intersection of Camino De Oesta Road and Oasis Road	#1
At the intersection of Potvin Road and Orange Ranch Road	#2
On Tangerine Road, approximately 1 mile east of the intersection of Tangerine Road and Thornydale Road	#3
Coalescent Alluvial Fan Areas:	
Cochie Canyon East or Cochie Canyon West: Approximately 1,000 feet north of the southwest corner of Section 19, Township 11 South, Range 12 East	#1
Approximately 1,000 feet east of the center of Section 19, Township 11 South, Range 12 East	#2
Cochie Canyon East, Cochie Canyon West, or Unnamed Canyon: Approximately 1,000 feet south of the southeast corner of Section 24, Township 11 South, Range 11 East	#1
Cochie Canyon East or Unnamed Canyon: Approximately 1,500 feet west of the northwest corner of Section 29, Township 11 South, Range 12 East	#1
In the center of Section 20, Township 11 South, Range 12 East	#2
Cochie Canyon East, Unnamed Canyon, or Wild Burro Canyon: Approximately 1,500 feet south of the corner of Sections 29, 30, 19, and 20, Township 11 South, Range 12 East	#2
Cochie Canyon East, Unnamed Canyon, Wild Burro Canyon, or Ruelas Canyon: On Tangerine Road approximately 3,000 feet east of the intersection of Tangerine Road and the Southern Pacific Railroad	#2
Ruelas Canyon or Wild Burro Canyon:	
At the intersection of Tangerine Road and the access road to the reservoir in Section 32, Township 11 South, Range 12 East	#1
At the southeast corner of Section 28, Township 11 South, Range 12 East	#2
At the northwest corner of the northeast quarter, Section 27, Township 11 South, Range 12 East	#3
Ruelas Canyon, Wild Burro Canyon, or Prospect Canyon: The northeast corner of the southeast quarter of Section 5, Township 12 South, Range 12 East	#2
Ruelas Canyon or Prospect Canyon: At the center of Section 4, Township 12 South, Range 12 East	#2
Prospect Canyon or Canada Agua West: At the northeast corner of the southeast quarter of Section 9, Township 12 South, Range 12 East	#1
Canada Agua West or Canada Agua East: At the intersection of Greenlock Drive and Bluebonnet Road	#1
Maps are available for review at the Pima County Transportation and Flood Control District, 1313 South Mission Road, Tucson, Arizona.	

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Pima County (unincorporated areas), (FEMA docket No. 6941)	
Agua Caliente Wash:	
City of Tucson corporate limits at Houghton Road	*2,587
Just downstream of Fort Lowell Road	*2,641
Just upstream of Soldier Trail	*2,692
At the confluence of Molina Wash	*2,748
Pantano Wash:	
At the confluence with Rillito Creek, approximately 530 feet downstream of Craycroft Road	*2,428
Approximately 50 feet upstream of Harrison Road	*2,726
Just upstream of Houghton Road	*2,771
Approximately 100 feet upstream of Los Reales Road	*2,916
Just downstream of Vail Road	*3,134
Just downstream of the dam at the Limit of Detailed Study	*3,193
Rincon Creek:	
At confluence with Pantano Wash	*2,830
Just upstream of Old Spanish Trail	*2,879
At Camino Loma Alta	*2,984
At the confluence of an unnamed tributary located approximately 1,500 feet east of Township Range R16E/R17E, in Section 17 of Township 15 South	*3,070
Maps are available for review at the Pima County Department of Public Works, Flood Control Division, 1313 S. Mission Road, Tucson, Arizona.	
Town of Wickenburg, Maricopa County (FEMA docket No. 6932)	
Sols Wash:	
At confluence with Hassayampi River	*2,050
At U.S. Highway 89	*2,059
Approximately 1 mile upstream of U.S. Highway 89	*2,103
Approximately 0.67 mile downstream of Vulture Mine Road	*2,135
At Vulture Mine Road	*2,166
Maps are available for review at the Town Hall, 120 East Apache, Wickenburg, Arizona.	
CALIFORNIA	
Butte County (unincorporated areas) (FEMA Docket No. 6946)	
Butte Creek:	
Just upstream of Skyway Road	*246
Approximately 8,700 feet upstream of Skyway Road	*276
Approximately 3,625 feet downstream of covered bridge	*324
Approximately 3,875 feet upstream of Honey Run Road	*361
Wyman Ravine:	
Just upstream of Stimpson Lane	*95
Approximately 1,400 feet upstream of Lone Tree Road	*120
Just upstream of Palermo Road	*153
Just downstream of Lincoln Boulevard	*174
Approximately 1,000 feet northwest of intersection of Messina Avenue and Lincoln Boulevard	#1
Wyman Ravine Tributary 1:	
At confluence with Wyman Ravine	*143
Just downstream of Melvina Avenue	*155
Just downstream of Palermo Huncut Highway Bridge	*174
Palermo Tributary:	
At confluence with Wyman Ravine Tributary 1	*148
Just upstream of Palermo Road	*159
Just downstream of Messina Avenue	*171
Keefer Slough:	
Just upstream of State Route 99	*177
Approximately 2,020 feet downstream of Landmark Lane	*209

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Approximately 860 feet upstream of Keefer Road	*239
Approximately 500 feet east of State Route 99 crossing	#1
Ruddy Creek:	
Approximately 2,520 feet downstream of Biggs Avenue	*151
At Grand Avenue	*175
Just downstream of Nelson Avenue	*191
Ruddy Creek Tributary:	
At confluence with Ruddy Creek	*189
Just downstream of Sixteenth Street	*194
Just downstream of Twentieth Street	*198
Maps are available for review at the Butte County Department of Public Works, 7 County Center Drive, Oroville, California.	
Napa County (unincorporated areas) (FEMA Docket No. 6946)	
San Pablo Bay:	
At southeastern tip of Coon Island	*7
Napa River:	
At northern tip of Bull Island	*7
Approximately 1,400 feet upstream of State Highway 29	*8
Approximately 200 feet upstream of Imola Avenue	*13
Approximately 500 feet upstream of First Street	*22
Approximately 500 feet upstream of Milliken Creek	*29
Just downstream of West Trancas Road	*30
Maps are available for review at the Napa County Department of Public Works, 1195 Third Street, Room 301, Napa, California.	
Palo Alto (city), Santa Clara County (FEMA Docket No. 6938)	
Matadero Creek:	
Chestnut Avenue between Birch Street and Ash Street	*30
San Francisco Bay:	
At Palo Alto Municipal Airport	*8
Maps are available for review at City Hall, Public Works Department, 250 Hamilton Avenue, Palo Alto, California.	
San Diego (city), San Diego County (FEMA Docket No. 6946)	
Tijuana River:	
At Hollister Street	*27
At Tijuana Street	*45
Approximately 4,400 feet above Tijuana Street	*54
Carmel Valley Creek:	
Approximately 125 feet downstream of Sorrento Valley Road	*12
At El Camino Real	*28
Approximately 165 feet upstream of Shaw Valley Road	*83
Approximately 75 feet downstream of confluence with Bell Valley Creek	*93
At confluence with Bell Valley Creek	*93
Approximately 320 feet upstream of confluence of McGonigle and Deer Canyons	*126
Kit Carson Park Creek:	
At confluence with Lake Hodges	*326
Los Penasquitos Creek:	
Approximately 340 feet downstream of Chambers Dam	*341
Approximately 100 feet upstream of Chambers Dam	*353
Approximately 1,550 feet below upstream corporate limits	*393
At upstream corporate limits	*408
San Diego River:	
Approximately 1,300 feet downstream of Friars Road	*69
Approximately 60 feet upstream of Zion Avenue	*80
Approximately 2,080 feet upstream of Private Road	*132
San Diego River at Santee:	
Approximately 1,600 feet downstream of Hollins Lake	*289
Approximately 1,300 feet upstream of Hollins Lake	*305
At upstream corporate limits	*318
Green Valley Creek:	
Approximately 210 feet upstream of Rios Road	*499
Approximately 1,480 feet upstream of Rios Road	*526
Murphy Canyon Creek:	
Approximately 200 feet upstream of Friars Road	*71
Approximately 50 feet upstream of culvert upstream of Friars Road	*86
Just upstream of Aero Drive culvert	*160
Just upstream of Interstate Highway 15/Balboa Avenue interchange culvert	*208
Approximately 60 feet above upstream face of Clairemont Mesa on-ramp to Interstate Highway 15	*251
Santa Ysabel Creek:	
At confluence with Lake Hodges	*326
Approximately 165 feet upstream of the confluence with Santa Maria Creek	*370
Approximately 60 feet upstream of Battle Monument Road	*385
Just upstream of State Highway 78	*426
Approximately 5,440 feet upstream of State Highway 78	*444
Santa Maria Creek:	
Approximately 280 feet upstream of confluence with Santa Ysabel Creek	*370
Approximately 60 feet upstream of Battle Monument Road	*385
Approximately 40 feet upstream of Bandy Canyon Road	*398
Lake Hodges:	
Above Interstate Highway 15	*326
At confluence with Kit Carson Park Creek	*326
San Diego Bay:	
At mouth of Otay River	#6
At Shelter Island (entire shoreline)	#6
At San Diego-Coronado Bay Bridge	#6
Pacific Ocean:	
Approximately 5,000 feet north and 1,700 feet west of southernmost extent of Point Loma	#21
Approximately 300 feet west of intersection of Sunset Cliffs Boulevard and Point Loma Avenue	#9
Approximately 550 feet west of intersection of Wilber Street and Ocean Boulevard	#13
Approximately 200 feet west of intersection of Calumet Avenue and Sea Ridge Drive	#18
Approximately 300 feet west of intersection of Palomar Avenue and Camino De La Coasta Road	#10
Approximately 100 feet north and 250 feet west of intersection of Camino Del Grande and Calle Optima	#8
Approximately 850 feet north and 2,250 feet west of intersection of North Torrey Pines and Miramar Roads	#15
Approximately 3,000 feet west of intersection of North Torrey Pines Road and Torrey Pines Scenic Drive	#9
Maps are available for review at the City of San Diego Engineering and Development Department, 202 C Street, San Diego, California.	
Shafter (city), Kern County (FEMA Docket No. 6946)	
Shallow Flooding:	
Intersection of Walker Street and Mannel Avenue	*346
Just southeast of intersection of East Lerdo Highway and Atchison, Topeka and Santa Fe Railway	#1
Maps are available for review at City Hall, 320 James Street, Shafter, California.	
Stanislaus County (unincorporated areas) (FEMA Docket No. 6946)	
Del Puerto Creek:	
Approximately 2,300 feet upstream of confluence with San Joaquin River	*47
Approximately 100 feet upstream of Vineyard Avenue	*89
Just upstream of State Highway 33	*107
Just upstream of Raines Road	*180
Salado Creek:	
Just downstream of the Southern Pacific Railroad	*96
Just upstream of Ward Avenue	*102
Just upstream of Sperry Avenue	*128
Just downstream of Raines Road	*181
Orestimba Creek:	
Approximately 1,000 feet downstream of River Road	*62
Approximately 150 feet upstream of Morris Road	*90
At Southern Pacific Railroad	*105
Approximately 100 feet upstream of Eastin Road	*123
At Delta-Mendota Canal	*166
Maps are available for review at the Stanislaus County Offices, Public Works Department, 1100 H Street, Modesto, California.	
COLORADO	
Fremont County (unincorporated areas) (FEMA Docket No. 6946)	
Arkansas River:	
Approximately 1,000 feet downstream of State Route 115	*5,096
Approximately 250 feet downstream of State Route 67	*5,148
Approximately 1,400 feet upstream of confluence with Chandler Creek	*5,180
Approximately 500 feet downstream of Mackenzie Avenue	*5,230
Approximately 2,100 feet upstream of City of Canon City eastern corporate limits	*5,300
Oak Creek:	
Approximately 180 feet downstream of State Route 115	*5,183
Just upstream of the Denver and Rio Grande Western Railroad	*5,195
Approximately 925 feet upstream of the Atchison, Topeka and Santa Fe Railway	*5,284
Coal Creek:	
Approximately 100 feet upstream of City of Florence corporate limits	*5,195
Approximately 2,150 feet upstream of City of Florence corporate limits	*5,209
Approximately 4,200 feet upstream of City of Florence corporate limits	*5,228
North East Canon Drainage Area (East Branch):	
Approximately 25 feet upstream of Central Avenue	*5,372
Just downstream of High Street	*5,440
Approximately 1,400 feet downstream of New York Avenue	*5,520
Approximately 100 feet downstream of New York Avenue	*5,545
North East Canon Drainage Area (West Branch):	
Approximately 1,260 feet downstream of confluence with Fruitland Ditch	*5,392
Approximately 2,320 feet downstream of Washington Street	*5,415
Approximately 60 feet downstream of Washington Street	*5,450
Approximately 1,600 feet upstream of intersection of Vermont Avenue and High Street	*5,498
Chandler Creek:	
Approximately 100 feet downstream of Denver and Rio Grande Western Railroad	*5,202
Approximately 3,950 feet upstream of Denver and Rio Grande Western Railroad	*5,280
Just upstream of County Road 11A	*5,360
Approximately 1,560 feet upstream of County Road 11A	*5,384

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Maps are available for inspection at the Fremont County Planning Department, County Courthouse, 600 Macon Avenue, Canon City, Colorado.	
Gunnison County (unincorporated areas) (FEMA Docket No. 6941)	
Tomichi Creek:	
At confluence with Gunnison River	*7,602
Just upstream of bridge crossing which is located approximately 10,900 feet above the confluence with Gunnison River	*7,637
Approximately 14,800 feet upstream of bridge crossing that is located approximately 10,900 feet above the confluence with Gunnison River	*7,666
Gunnison River:	
At McCabe Bridge	*7,571
Approximately 2,550 feet upstream of Footbridge	*7,600
Just upstream of the westbound lane of U.S. Route 50	*7,646
At confluence of Antelope Creek	*7,682
At confluence of Ohio Creek	*7,729
Approximately 50 feet upstream of State Route 135	*7,763
North Fork Gunnison River:	
Just upstream of the Delta County Line	*5,898
Approximately 4,525 feet downstream of Somerset Bridge	*5,955
Approximately 1,570 feet upstream of Somerset Bridge	*6,020
Maps are available for review at the Office of County Planning, 200 East Virginia Avenue, Gunnison, Colorado.	
Logan County (unincorporated areas) (FEMA Docket No. 6946)	
South Platte River:	
Approximately 7,000 feet downstream of Burlington Northern Railroad	*3,917
Approximately 1,750 feet upstream of Burlington Northern Railroad	*3,929
Approximately 18,000 feet upstream of Burlington Northern Railroad	*3,950
Pawnee Creek Overflow:	
At confluence with Sand Creek	*3,929
At confluence with Sterling No. 1 Ditch	*3,951
Sand Creek:	
At State Highway 138	*3,923
Approximately 525 feet downstream of Hall Road	*3,955
Approximately 3,050 feet upstream of Hall Road	*3,988
Maps are available for review at the Logan County Courthouse, Zoning Administrator's Office, 300 Ash Street, Sterling, Colorado.	
Monument (town), El Paso County (FEMA Docket No. 6946)	
Crystal Creek:	
Approximately 420 feet downstream of North Monument Lake Road	*6,918
Approximately 120 feet downstream of North Monument Lake Road	*6,923
Approximately 40 feet downstream of Washington Street	*6,980
Just downstream of Beacon Light Road	*7,012
Approximately 1,040 feet upstream of Beacon Light Road	*7,044
Dirty Woman Creek:	
Approximately 50 feet downstream of Mitchell Avenue	*6,886
Approximately 330 feet upstream of Old Denver Highway	*6,926
Approximately 250 feet downstream of U.S. Highway 85/87	*6,950
Maps are available for inspection at the Town Hall, 166 2nd Street, Monument, Colorado.	

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Sterling (city), Logan County (FEMA Docket No. 6946)	
South Platte River:	
Approximately 2,800 feet downstream of the Burlington Northern Railroad	*3,922
Approximately 1,800 feet upstream of the Burlington Northern Railroad	*3,929
Approximately 2,450 feet upstream of U.S. Highway 6	*3,938
Pawnee Creek Overflow:	
Approximately 500 feet downstream from Elm Street	*3,931
At the intersection of Phelps Street and South Tenth Street	*3,941
At the intersection of Faithhurst Street and Westview Drive	*3,949
Sand Creek:	
At State Highway 138	*3,923
Approximately 150 feet downstream from North Seventh Avenue	*3,931
At the intersection of North Eighth Avenue extended and Washington Street extended	*3,937
On Hall Road approximately 400 feet north of the intersection of Hall Road and Main Street	*3,961
Maps are available for review at the Department of Public Works, Centennial Square, Sterling, Colorado.	
FLORIDA	
Key Colony Beach (city), Monroe County (FEMA Docket No. 6951)	
Atlantic Ocean:	
About 1,000 feet north of the intersection of 8th Street and Ocean Drive West	*6
Along shoreline	*13
Gulf of Mexico:	
About 1,000 feet north of the intersection of 8th Street and Ocean Drive West	*6
At the intersection of the Sadowski Causeway and the Overseas Highway	*9
Maps available for inspection at the Building Official's Office, City Hall, Key Colony Beach, Florida.	
Key West (city), Monroe County (FEMA Docket No. 6951)	
Atlantic Ocean:	
At the intersection of United Street and Simonton Street	*6
About 900 feet south of the intersection of Atlantic Boulevard and Bertha Street along the Atlantic coastline	*13
Gulf of Mexico:	
At the intersection of Roosevelt Boulevard and Eisenhower Drive	*6
Along the Stock Island Gulf coastline	*13
Maps available for inspection at the Building Department, 604 Simonton Street, Key West, Florida.	
Layton (city), Monroe County (FEMA Docket No. 6951)	
Gulf of Mexico:	
About 700 feet south of the intersection of South Layton Drive and Sands Lane	*7
About 500 feet north of the intersection of Zane Grey Creek Road and Overseas Highway	*13
Maps available for inspection at the City Hall, Layton, Florida.	
Monroe County (unincorporated areas) (FEMA Docket No. 6951)	
Atlantic Ocean:	
At the intersection of North Bahama Drive and San Juan Street on Duck Key	*6
Along the shoreline of Angelfish Key	*16
Gulf of Mexico:	

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
About 10,000 feet upstream of the confluence of Rookery Branch and North Prong	*4
Along shoreline	*26
Biscayne Bay:	
At the intersection of Old Dixie Highway and State Road 905	*8
Along the shoreline at Snapper Point	*17
Florida Bay:	
At the intersection of Bayview Drive and Palm Drive on Lower Matecumbe Key	*6
Along the northwest shoreline of Shell Key	*15
Maps available for inspection at the County Building Offices in Stock Island, Plantation Key and Marathon, Florida.	
GEORGIA	
Bartow County (unincorporated areas) (FEMA Docket No. 6946)	
Allatoona Lake: Within community	*861
Etowah River:	
At county boundary	*618
Just downstream of Thompson-Weiman Dam	*685
Just upstream of Thompson-Weiman Dam	*698
Just downstream of Allatoona Dam	*701
Pumpkinvine Creek:	
At mouth	*683
About 2.0 miles upstream of U.S. Route 41	*732
Pettit Creek:	
At mouth	*678
Just downstream of Interstate 75	*776
Nancy Creek:	
At mouth	*687
About 300 feet upstream of Cassville Road	*753
Maps available for inspection at the County Courthouse, Cartersville, Georgia.	
Burke County (unincorporated areas) (FEMA Docket No. 6946)	
Mc Intosh Creek:	
Just upstream of Thompson Bridge Road	*199
Just downstream of Waynesboro Bypass	*214
Savannah River:	
At confluence of McBean Creek	*108
About 7 miles upstream from confluence of McBean Creek	*115
Maps available for inspection at the Tax Appraiser's Office, Courthouse Office, Waynesboro, Georgia.	
Cartersville (city), Bartown County (FEMA Docket No. 6946)	
Etowah River:	
About 1.9 miles downstream of Rockmart Road	*671
About 0.75 mile upstream of confluence of Pettit Creek	*679
Pettit Creek:	
About 3,200 feet downstream of Rockmart Road	*678
About 800 feet downstream of Peeples Valley Road	*730
Nancy Creek:	
Just upstream of Mission Road	*692
Just upstream of CSX railroad	*712
Maps available for inspection at the City Hall, Cartersville, Georgia.	
Emerson (city), Bartow County (FEMA Docket No. 6946)	
Pumpkinvine Creek:	
About 1,900 feet downstream of U.S. Route 41	*709
About 1,800 feet upstream of U.S. Route 41	*713
Maps available for inspection at the City Hall, Emerson, Georgia.	
Jenkins County (unincorporated areas) (FEMA Docket No. 6946)	
Ogeechee River:	
About 4.5 miles downstream of U.S. Route 25	*142
About 1.6 miles upstream of U.S. Route 25	*145

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Buckhead Creek:	
At mouth	*144
About 0.9 mile upstream of confluence of Little Buckhead Creek	*153
The Canal:	
At mouth	*144
Just upstream of Scarboro Road	*182
Little Buckhead Creek:	
At mouth	*151
Just upstream of Harvey Street	*157
Maps available for inspection at the County Clerk's Office, County Courthouse, Millen, Georgia.	
Millen (city), Jenkins County (FEMA Docket No. 6946)	
Buckhead Creek:	
Just downstream of Norfolk Southern Railway	*144
At confluence of Little Buckhead Creek	*151
The Canal:	
About 975 feet downstream of U.S. Route 25	*146
About 1,800 feet downstream of Pine Avenue	*167
Little Buckhead Creek:	
At mouth	*151
Just upstream of Norfolk Southern Railway	*155
Maps available for inspection at the City Administrator's Office, City Hall, Millen, Georgia.	
HAWAII	
Maui County (FEMA Docket No. 6941)	
Kihei Gulch 1:	
Approximately 300 feet upstream of Mouth	*7
Approximately 150 feet upstream of Kihei Road	*8
Approximately 825 feet upstream of Kihei Road	*14
Waipuilani Gulch:	
Approximately 690 feet upstream of Mouth	*8
Approximately 725 feet upstream of Kihei Road	*14
Approximately 1,350 feet upstream of Kihei Road	*21
Kulanihakoi Gulch:	
Approximately 275 feet upstream of Kihei Road	*9
Approximately 830 feet downstream of Kanakanui Road	*14
Just downstream of Kanakanui Road	*18
Kalialinui Gulch:	
Approximately 725 feet upstream of Alano Street	*14
Approximately 230 feet downstream of Keolani Road	*18
Just upstream of Haleakala Highway	
Kamilola Gulch:	
Approximately 150 feet downstream of Kapaakeal Loop	*3
Approximately 180 feet upstream of Kamehameha V Highway	*12
Approximately 840 feet upstream of Kamehameha V Highway	*25
Kaunakakai Stream:	
At Mouth	*3
Approximately 220 feet upstream of Kamehameha V Highway	*10
Approximately 1,850 feet upstream of Kamehameha V Highway	*17
Mile 84 Stream:	
Approximately 100 feet upstream of Mouth	*2
Approximately 140 feet upstream of Ena Stream	*18
Approximately 200 feet upstream of Haena Street	*28
Pacific Ocean:	
Approximately 4,700 feet east along Kula Road from the intersection of Kula and Hobron Roads	*20
Approximately 400 feet south of a point on Kula Road, 4,700 feet east of the intersection of Kula and Hobron Roads	*12
About 800 feet north of where the Kahului Railroad crosses Kalialinui Gulch	*18
About 200 feet east of where the Kahului Railroad crosses Kalialinui Gulch	*12

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Maps are available for review at the Maui County Department of Public Works, Division of Land Use and Code Administration, 200 South High Street, Wailuku, Hawaii.	
IDAHO	
Cascade (city), Valley County (FEMA Docket No. 6927)	
North Fork Payette River:	
At southern-most corporate limit	*4,727
Approximately 859 feet downstream of State Highway 55	*4,730
Approximately 4,370 feet upstream of State Highway 55 (near Cascade Airport)	*4,732
Approximately 140 feet upstream of State Highway 55 (near Cascade dam)	*4,739
Maps are available for review at City Hall, 108 East Market, Cascade, Idaho.	
ILLINOIS	
Clinton (city), De Witt County, (FEMA Docket No. 6946)	
Coon Creek:	
About 1,500 feet upstream of Grant Street	*698
About 2,250 feet upstream of Alexander Street	*716
Goose Creek:	
At mouth	*714
About 250 feet upstream of Welch Street	*720
Tenmile Creek:	
Just downstream of Old Lincoln Road	*700
About 900 feet upstream of Woodlawn Avenue	*706
Maps available for inspection at the Zoning Office, 118–120 West Washington Street, Clinton, Illinois.	
De Witt County (unincorporated areas) (FEMA Docket No. 6946)	
Coon Creek:	
About 1,500 feet upstream of U.S. Route 51	*696
About 2,250 feet upstream of Alexander Street	*716
North Fork Salt Creek:	
At mouth	*697
About 2 miles upstream of Wapell-Parnal Road	*707
Salt Creek:	
About 3.0 miles downstream of Illinois Central Gulf Railroad	*646
Just downstream of Clinton Lake Dam	*661
Just upstream of Clinton Lake Dam	*697
About 0.7 mile upstream of Interstate 74	*711
Salt Creek Tributary:	
At mouth	*709
About 900 feet upstream of State Route 54	*709
Tenmile Creek:	
About 1.25 miles upstream of State Route 10	*700
About 900 feet upstream of Woodlawn Avenue	*706
Maps available for inspection at the County Zoning Office, County Courthouse, 201 West Washington Street, Clinton, Illinois.	
Farmer City (city), De Witt County (FEMA Docket No. 6946)	
Salt Creek:	
About 2,900 feet downstream of South Main Street	*702
About 650 feet downstream of confluence of Salt Creek Tributary	*709
Salt Creek Tributary:	
About 550 feet upstream of State Route 54	*709
About 900 feet upstream of State Route 54	*709
Maps available for inspection at the City Hall, 105 South Main Street, Farmer City, Illinois.	
Pearl City (village), Stephenson County (FEMA Docket No. 6946)	
Yellow Creek:	
Just downstream of Pearl City Road	*814
About 0.9 mile upstream of Pearl City Road	*816
Goldmine Road Tributary:	
About 1,300 feet downstream of Pearl City Road	*814
About 500 feet upstream of Chicago and North Western railroad	*819
Maps available for inspection at the Village Hall, Pearl City, Illinois.	
IOWA	
Clarksville (city), Butler County (FEMA Docket No. 6946)	
Shell Rock River:	
Just downstream of the Missouri, Kansas, Texas Railroad	*923
Approximately 1,000 feet upstream of the Chicago and North Western railroad	*931
Maps available for inspection at the City Hall, 115 West Superior, Clarksville, Iowa.	
Williamsburg (City), Iowa County (FEMA Docket No. 6941)	
Old Mans Creek:	
About 1.2 miles downstream of State Street	*754
About 0.75 mile upstream of Highland Street	*766
Maps available for inspection at the City Hall, 210 West State, Williamsburg, Iowa.	
KENTUCKY	
Ballard County (unincorporated areas) (FEMA Docket No. 6946)	
Mississippi River:	
At confluence of Mayfield Creek	*329
At confluence of Ohio River	*331
Ohio River:	
At mouth	*331
About 7.6 miles upstream of Lock and Dam No. 53	*335
Sugar Creek:	
About 0.8 mile downstream of State Highway 1837	*352
About 400 feet upstream of U.S. Highway 62	*362
Sugar Creek Tributary:	
At mouth	*359
About 700 feet upstream of mouth	*360
Mayfield Creek:	
At mouth	*329
At county boundary	*353
Maps available for inspection at the County Courthouse, Wickliffe, Kentucky.	
Barbourville (city), Knox County (FEMA Docket No. 6941)	
Cumberland River:	
About 0.6 mile downstream of State Route 11	*985
About 1.2 miles upstream of State Route 11	*988
Richland Creek: Within community	*986
Maps available for inspection at the City Hall, Barbourville, Kentucky.	
Clay City (city), Powell County (FEMA Docket No. 6946)	
Red River:	
About 2,200 feet downstream of Mountain Parkway	*626
About 1.6 miles upstream of 9th Street	*630
Brush Creek:	
At mouth	*628
Just upstream of 6th Avenue	*631
Maps available for inspection at the City Hall, Clay City, Kentucky.	
Hartford (city), Ohio County (FEMA Docket No. 6946)	
Rough River:	
About 0.3 mile downstream of U.S. Route 231	*394
About 0.6 mile upstream of U.S. Route 231	*395

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Maps available for inspection at the City Hall, 114 Washington Street, Hartford, Kentucky.	
Ohio County (unincorporated areas) (FEMA Docket No. 6946)	
Rough River:	
At mouth	*391
About 4.2 miles upstream of State Route 54	*441
Green River:	
At confluence of Rough River	*391
At upstream crossing of county boundary	*414
Maps available for inspection at the Judge's Office, County Courthouse, Hartford, Kentucky.	
Rockport (town), Ohio County (FEMA Docket No. 6946)	
Green River: Within community	*400
Maps available for inspection at the City Hall, General Delivery, Rockport, Kentucky.	
LOUISIANA	
St. Tammany Parish (unincorporated areas) (FEMA Docket No. 6941)	
Tchefuncta River:	
Approximately .9 mile upstream of State Route 21	*16
At State Route 1077	*68
Bogue Falaya:	
Approximately 350 feet upstream of State Route 437	*28
At Hosmer Mill Road	*33
At Camp Covington Bridge	*57
Little Bogue Falaya:	
Approximately 1.6 miles upstream of confluence with Bogue Falaya	*26
Just downstream of confluence with East Fork	*43
Abita Creek:	
At confluence with Abita River	*34
Approximately .8 mile upstream of State Route 435	*46
English Branch:	
At confluence with Abita River	*34
Approximately 4.1 miles upstream of confluence with Abita River	*48
Long Branch:	
At State Route 59	*30
Approximately .3 mile upstream of Abita Springs corporate limits	*31
Long Branch Tributary:	
Approximately 1,950 feet downstream of Abita Springs corporate limits	*33
At Tarpon Springs Road	*38
Southwind Branch:	
At confluence with Abita River	*21
At Illinois Central Gulf Railroad	*30
Ponchitolawa Creek:	
At confluence with Tchefuncta River	*9
Approximately 1.5 miles upstream of Illinois Central Railroad	*32
Little Creek:	
At confluence with Ponchitolawa Creek	*12
Approximately 132 feet upstream of Denton Road	*30
Bayou Tete L'Ours: At Shady Lane	*17
Bayou Chinchuba:	
Approximately 1.6 miles upstream of confluence with Lake Pontchartrain	*12
Approximately .57 mile upstream of State Route 59	*25
Big Branch Bayou:	
Just upstream of Berry Todd Road	*10
At Interstate Route 12	*21
Cypress Bayou:	
Approximately 200 feet upstream of U.S. Route 190	*13
At Interstate Route 12	*21
Bayou Vincent:	
Just upstream of Interstate Route 12	*17
At Maverick Run	*30
Bogue Chitto River:	
Approximately 500 feet downstream of Isabel Highway	*86
Approximately 2.65 miles upstream of Isabel Highway	*95
Gum Creek:	
At confluence with Old Channel	*23
At State Route 36	*41
Maps available for inspection at 428 East Boston, Covington, Louisiana.	
MAINE	
Owls Head (town), Knox County (FEMA Docket No. 6951)	
Atlantic Ocean:	
Western end of Ash Island	*12
Western end of Monroe Island	*12
Southwestern end of Monroe Island	*18
Northwestern end of Sheep Island	*13
Southwestern end of Sheep Island	*18
Maps available for inspection at the Municipal Building, Star Route 32, Owls Head, Maine.	
MISSISSIPPI	
Adams County (unincorporated areas) (FEMA Docket No. 6946)	
Mississippi River:	
At county boundary	*67
About 2.0 miles upstream of confluence of Coles Creek	*83
St. Catherine Creek:	
At mouth	*76
About 0.7 mile upstream of U.S. Highway 61	*125
Maps available for inspection at the Chancery Clerk's Office, County Courthouse, Natchez, Mississippi.	
Batesville (city), Panola County (FEMA Docket No. 6946)	
Cole Creek:	
About 1,000 feet downstream of State Highway 6	*215
Just downstream of State Highway 6	*217
Little Tallahatchie River:	
Just upstream of Panola Avenue	*194
Whitten Creek:	
About 0.5 mile downstream of U.S. Highway 51	*205
About 0.5 mile upstream of State Highway 35	*232
Maps available for inspection at the City Clerk's Office, City Hall, 103 College Street, Batesville, Mississippi.	
Holmes County (unincorporated areas) (FEMA Docket No. 6946)	
Black Creek:	
Just upstream of State Highway 12	*210
About 1.6 miles upstream of State Highway 12	*217
Maps available for inspection at the Channcery Clerk's Office, Channcery Clerk's Building, County Courthouse Grounds, Lexington, Mississippi.	
Lauderdale County (unincorporated areas) (FEMA Docket No. 6946)	
Bailey Branch:	
At mouth	*332
About 1,400 feet upstream of Windsor Drive	*352
Harper Creek:	
At mouth	*315
About 3.7 miles upstream of State Highway 19	*362
Harper Creek Tributary:	
At mouth	*315
About 1.0 mile upstream of State Highway 19	*340
Loper Creek:	
At mouth	*302
At confluence of Gunn Branch	*332
Gunn Branch:	
At mouth	*332
About 2,500 feet upstream of State Highway 493	*353
Nanabe Creek:	
At mouth	*343
Just downstream of U.S. Highway 45 Bypass	*355
Just upstream of U.S. Highway 45 Bypass	*362
At confluence of Brandon Branch	*378
Okatibbee Creek:	
About 2.4 miles downstream of Interstate 59	*288
About 0.8 mile upstream of confluence of Suqualena Creek	*319
Okatibbee Creek Tributary:	
At mouth	*310
Just downstream of abandoned railroad	*313
Just upstream of abandoned railroad	*319
Just upstream of Old 8th Street	*324
Sowashee Creek:	
About 3.1 miles downstream of Valley Road	*288
Just downstream of Lockeed Drive	*354
Just upstream of Lockeed Drive	*360
About 2.3 miles upstream of U.S. Highway 45 Bypass	*385
Suqualena Creek:	
At mouth	*318
About 4.2 miles upstream of State Highway 19	*359
Maps available for inspection at the County Engineer's Office, Courthouse Annex, Meridian, Mississippi.	
Lawrence County (unincorporated areas) (FEMA Docket No. 6946)	
Pearl River:	
Just upstream of County Road	*200
At northern county boundary	*215
Maps available for inspection at the County Courthouse, Monticello, Mississippi.	
Leake County (unincorporated areas) (FEMA Docket No. 6946)	
Pearl River:	
About 1 mile downstream of State Highway 35	*341
About .97 mile upstream of State Highway 35	*343
Tuscolameta Creek:	
About 2,700 feet downstream of Illinois Central Gulf Railroad	*354
About 2,700 feet upstream of State Highway 35	*357
Maps available for inspection at the Channcery Clerk's Office, County Courthouse, Carthage, Mississippi.	
Marion (town), Lauderdale County (FEMA Docket No. 6946)	
Sowashee Creek:	
About 2,200 feet upstream of confluence of Nanabe Creek	*344
Just downstream of Lockeed Drive	*354
Just upstream of Lockeed Drive	*360
About 1.3 miles upstream of U.S. Highway 45 Bypass	*373
Maps available for inspection at the City Clerk's Office, City Hall, Dale Drive, (U.S. Highway 45 North), Marion, Mississippi.	
Meridian (city), Lauderdale County (FEMA Docket No. 6946)	
Okatibbee Creek:	
About 2.4 miles downstream of Interstate 59	*288
About 1.2 miles downstream of State Boulevard Extension Road	*311
Loper Creek:	
At mouth	*302
At confluence of Gunn Branch	*332
Magnolia Creek:	
At confluence with Sowashee Creek	*326
Just downstream of 36th Street	*380
Sowashee Creek:	
About 3.0 miles downstream of Valley Road	*289
About 0.4 mile upstream of confluence of Clear Branch	*342
Maps available for inspection at the Building Inspector's Office, City Hall, 601 24th Avenue, Meridian, Mississippi.	

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Mt. Olive (town), Covington County (FEMA Docket No. 6946)	
Okatoma Creek:	
About 3,900 feet downstream of State Highway 35	*320
About 600 feet downstream of 2nd Street	*328
Town Creek Tributary:	
Just upstream of West Front Street	*332
About 3,100 feet upstream of West Front Street	*342
Town Creek:	
At mouth	*322
Just upstream of Fourth Street	*331
Maps available for inspection at the City Hall, Mt. Olive, Mississippi.	
Natchez (city), Adams County (FEMA Docket No. 6946)	
Mississippi River:	
About 0.5 mile downstream of John R. Junkin Drive	*77
About 2.1 miles upstream of John R. Junkin Drive	*78
St. Catherine Creek:	
About 1.7 miles downstream of Woodville Road	*76
About 0.7 mile upstream of U.S. Highway 98	*125
Maps available for inspection at the City Engineer's Office, City Hall, 112 South Pearl Street, Natchez, Mississippi.	
Neshoba County (unincorporated areas) (FEMA Docket No. 6946)	
Kentawka Canal:	
About 1 mile upstream of State Highway 15	*400
About 1.1 miles upstream of Illinois Central Gulf Railroad	*408
Maps available for inspection at the County Administrator's Office, County Courthouse, Philadelphia, Mississippi.	
Pike County (unincorporated areas) (FEMA Docket No. 6946)	
Tagipahoa River:	
At southern county boundary	*232
About 500 feet above State Highway 575	*238
Bogue Chitto:	
About 1.5 miles dovnstream of U.S. Highway 98	*255
About 1.3 miles upstream of U.S. Highway 98	*268
Town Creek:	
About 400 feet downstream of Illinois Central Gulf Railroad	*366
About 1,650 feet upstream of Illinois Central Gulf Railroad	*372
Maps available for inspection at the County Courthouse, Magnolia, Mississippi.	
Vicksburg (city), Warren County (FEMA Docket No. 6946)	
Hatcher Bayou:	
At confluence of Stouts Bayou	*110
About 0.9 mile upstream of confluence of Durden Creek	*127
Durden Creek:	
At mouth	*121
Just downstream of Brown Lake Dam	*125
Just upstream of Brown Lake Dam	*140
At confluence of Durden Creek Tributary No. 3	*171
Durden Creek Tributary No. 1:	
At mouth	*140
About 1,400 feet upstream of Lake Hill Drive	*161
Durden Creek Tributary No. 2: Within community	*145
Durden Creek Tributary No. 3:	
At mouth	*171
About 1,100 feet upstream of Indiana Avenue	*179
Hatcher Bayou Tributary No. 1:	
About 700 feet upstream of mouth	*114
About 1,900 feet upstream of Williams Drive	*120
Hatcher Bayou Tributary No. 2:	
At mouth	*116
About 1.0 mile upstream of mouth	*136
Mississippi River: Within community	*103
Stouts Bayou:	
About 650 feet upstream of mouth	*110
Just downstream of Rifle Range Road	*114
Stouts Bayou Tributary:	
At mouth	*110
About 0.6 mile upstream of Rifle Range Road	*119
Maps available for inspection at the Building Inspector's Office, City Hall, 1401 Walnut Street, Vicksburg, Mississippi.	
MISSOURI	
Doniphan (city), Ripley County (FEMA Docket No. 6946)	
Quick Creek:	
At mouth	*345
About 1,800 feet upstream of Vine Street	*363
Current River:	
At confluence of Quick Creek	*345
Just downstream of U.S. Highway 160	*346
Maps available for inspection at the City Hall, 118 State Street, Doniphan, Missouri.	
Independence (city), Clay and Jackson Counties (FEMA Docket No. 6946)	
Adair Creek:	
At mouth	*763
Just downstream of State Highway 291	*778
Crackerneck Creek:	
At mouth	*755
Just downstream of Selsa Road	*762
North Fork Crackerneck Creek:	
At mouth	*755
Just downstream of Selsa Road	*760
Spring Branch:	
At mouth	*750
Just downstream of Lake City Buckner Road	*763
Bundschu Creek:	
At mouth	*738
About 1.1 miles upstream of mouth	*751
Little Blue River:	
Just upstream of U.S. Highway 24	*732
About 2.1 miles upstream of Interstate 470	*773
East Fork Little Blue River:	
At mouth	*759
Just upstream of eastbound U.S. Highway 40	*768
Maps available for inspection at the City Hall, 111 East Maple, Independence, Missouri.	
NEW YORK	
Athens (town), Greene County (FEMA Docket No. 6946)	
Hudson River:	
At confluence of Corlaer Kill	*11
Upstream corporate limits with Town of Coxsackie	*13
Sleepy Hollow Lake: Entire length within community	*74
Catskill Creek:	
Approximately .8 mile downstream of confluence of Potic Creek	*147
Approximately 2.4 miles upstream of confluence of Potic Creek	*177
Maps available for inspection at the Athens Town Hall, 2 First Street, Athens, New York.	
Athens (village), Greene County (FEMA Docket No. 6946)	
Hudson River: Entire length within community	*12
Maps available for inspection at the Athens Village Hall, 2 First Street, Athens, New York.	
Cairo (town), Greene County (FEMA Docket No. 6946)	
Acra Tributary:	
At confluence with Catskill Creek	*354
Approximately 700 feet upstream of Joseph Holzmann Road	*807
Catskill Creek:	
At downstream corporate limits	*176
At upstream corporate limits	*389
Shingle Kill:	
At confluence with Catskill Creek	*259
At confluence of Trout Brook	*545
AH: Shallow Flooding Area: Approximately 600 feet south of County Route 24	*484
Trout Brook:	
At confluence with Shingle Kill	*545
Approximately 0.6 mile upstream of Bald Hills Road	*929
Maps available for inspection at the Cairo Town Hall, Main Street, Cairo, New York.	
Catskill (village), Greene County (FEMA Docket No. 6946)	
Hudson River: Entire length within community	*11
Catskill Creek:	
At confluence with Hudson River	*11
Approximately 0.8 mile upsiream of U.S. Route 9 west bridge	*23
Maps available for inspection at the Catskill Village Hall, 422 Main Street, Catskill, New York.	
Claverack (town), Columbia County (FEMA Docket No. 6946)	
Agawamuck Creek:	
At confluence with Claverack and North Creeks	*241
At corporate limits	*300
Claverack Creek (Lower Reach):	
At downstream corporate limits	*122
Approximately 2,470 feet upstream of Webb Road	*137
Claverack Creek (Upper Reach):	
Approximately 2,190 feet downstream of confluence of Agawamuck and North Creeks	*228
At confluence of Agawamuck and North Creeks	*241
North Creek:	
At confluence with Claverack and Agawamuck Creeks	*241
At corporate limits	*258
Maps available for inspection at the Claverack Town Hall, Route 217, Claverack, New York.	
Coxsackie (town), Greene County (FEMA Docket No. 6946)	
Cob Creek:	
Approximately 0.5 mile upstream of Potic Reservoir Dam	*430
Approximately 0.3 mile upstream of Tranquility Road	*491
Coxsackie Creek:	
Downstream corporate limits	*106
Approximately 1.5 miles upstream of County Route 49	*148
Climax Tributary:	
Confluence with Coxsackie Creek	*114
Approximately 120 feet upstream of Bronck Mill Road	*135
Reservoir Tributary:	
Confluence with Coxsackie Creek	*120
Approximately 500 feet upstream of Barrus Road	*139
East Branch Murderers Creek:	
Downstream corporate limits	*74
Approximately 400 feet upstream of Adams Road	*90
West Branch Murderers Creek:	
Downstream corporate limits	*74
Approximately 450 feet upstream of Flats Road	*121
Potic Creek:	
At the Schoharie Turnpike/downstream corporate limits	*373
Approximately 0.3 mile upstream of County Route 45	*425
Hudson River:	
Downstream corporate limits	*13

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Upstream corporate limits	*14
Maps available for inspection at the Town Hall, 16 Reed Street, Coxsackie, New York.	
Coxsackie (village), Greene County (FEMA Docket No. 6946)	
Coxsackie Creek:	
At downstream corporate limits	*111
Approximately 0.8 mile upstream of State Route 385	*114
Hudson River:	
At downstream corporate limits	*14
At upstream corporate limits	*14
Maps available for inspection at the Village Hall, 38 Mansion Street, Coxsackie, New York.	
Hudson (city), Columbia County (FEMA Docket No. 6938)	
Hudson River: Entire length within community	*12
Maps available for inspection at the City Hall, 520 Warren Street, Hudson, New York.	
Mamaroneck (town), Westchester County (FEMA Docket No. 6946)	
Long Island Sound:	
Hommocks Road, approximately 600 feet southeast of intersection with Boston Post Road	*13
At Satans Toe	*19
At Premium Point	*18
Maps available for inspection at the Town Center, 740 West Boston Post Road, Mamaroneck, New York.	
Middlesex (town), Yates County (FEMA Docket No. 6938)	
Canandaigua Lake: Entire shoreline within community	*692
Maps available for inspection at the Town Hall, Middlesex, New York.	
St. Johnsville (village), Montgomery County (FEMA Docket No. 6938)	
Mohawk River:	
Approximately 680 feet downstream of downstream corporate limits	*313
At upstream corporate limits	*314
Maps available for inspection at the Village Hall, 16 Washington Street, St. Johnsville, New York.	
NORTH CAROLINA	
Hamlet (city), Richmond County (FEMA Docket No. 6946)	
South Prong Falling Creek:	
About 600 feet downstream of U.S. Route 74	*259
Just downstream of Richmond College Lake Dam	*264
Maps available for inspection at the City Administrator's Office, City Hall, 201 Main Street, Hamlet, North Carolina.	
Lee County (unincorporated areas) (FEMA Docket No. 6946)	
Little Buffalo Creek:	
Just upstream of U.S. Route 15	*284
Just downstream of CSX Railroad (downstream crossing)	*318
Just upstream of CSX Railroad (downstream crossing)	*326
About 800 feet downstream of Weatherspoon Street	*341
Little Crane Creek:	
At county boundary	*318
Just downstream of Cedar Lane Road	*357
Big Buffalo Creek:	
About 1.3 miles downstream of Norfolk Southern Railway (downstream crossing)	*240
About 2,400 feet upstream of Boone Trail Road	*271
Persimmon Creek:	
Just downstream of Carthage Street	*328
About 2,200 feet upstream of Carthage Street	*345
Kendale Creek:	
At mouth	*311
Just downstream of Hiawatha Trail	*334
Just upstream of Hiawatha Trail	*344
About 1,450 feet upstream of Hiawatha Trail	*352
Gasters Creek:	
About 1.2 miles downstream of Lee Avenue	*272
About 2,750 feet upstream of confluence of Kendale Creek	*325
Carrs Creek:	
About 1.9 miles downstream of Cox Maddox Road	*264
Just downstream of Cox Maddox Road	*330
Just upstream of Cox Maddox Road	*336
About 850 feet upstream of Cox Maddox Road	*340
Pocket Creek:	
About 1.8 miles downstream of Steel Bridge Road	*272
About 2,400 feet upstream of Steel Bridge Road	*291
Maps available for inspection at the Land Records Department, County Courthouse, Sanford, North Carolina.	
Richmond County (unincorporated areas) (FEMA Docket No. 6946)	
Hitchcock Creek:	
About 0.6 mile downstream of Midway Pond Dam	*151
About 950 feet downstream of Midway Pond Dam	*157
South Prong Falling Creek:	
About 0.5 mile upstream of confluence of Beaverdam Branch	*242
About 600 feet downstream of U.S. Route 74	*259
Maps available for inspection at the Planning Office, County Courthouse, Rockingham, North Carolina.	
Rockingham (city), Richmond County (FEMA Docket No. 6946)	
Falling Creek:	
About 700 feet downstream of Old Mill Dam	*172
Just downstream of Old Mill Dam	*172
Just upstream of Old Mill Dam	*192
At confluence of North Prong Falling Creek	*212
South Prong Falling Creek:	
At confluence of North Prong Falling Creek	*212
Just downstream of Long Street	*223
Just upstream of Long Street	*229
About 0.5 mile upstream of confluence of Beaverdam Branch	*242
North Prong Falling Creek:	
Just downstream of Broad Avenue	*212
Just downstream of Hinson Lake Dam	*223
Hitchcock Creek:	
About 0.2 mile downstream of Midway Pond Dam	*157
Just upstream of Steele Street	*177
Maps available for inspection at the Planning Director's Office, City Hall, 311 East Franklin Street, Rockingham, North Carolina.	
Sanford (city), Lee County (FEMA Docket No. 6946)	
Little Buffalo Creek:	
About 0.9 mile downstream of CSX railroad (downstream crossing)	*303
About 1,900 feet upstream of Third Street	*367
Big Buffalo Creek:	
About 1,900 feet downstream of Norfolk Southern Railway (upstream crossing)	*261
About 1,800 feet upstream of Jefferson Davis Highway	*290
Skunk Creek:	
At mouth	*291
Just downstream of Garden Street Extension	*320
Persimmon Creek:	
About 1,250 feet downstream of Wicker Street	*291
Just downstream of Keller-Andrews Road	*321
Just upstream of Keller-Andrews Road	*327
Just downstream of Carthase Street	*328
Persimmon Creek Tributary:	
At mouth	*304
About 3,500 feet upstream of Westover Drive	*334
Maps available for inspection at the City Planning Office, City Hall, Sanford, North Carolina.	
NORTH DAKOTA	
Medora (city), Billings County (FEMA Docket No. 6946)	
Little Missouri River:	
Approximately 750 feet downstream of Interstate Highway 94	*2,268
Approximately 2,780 feet upstream of the Burlington Northern Railroad	*2,272
Maps are available for review at the Billings County Courthouse, Office of Medora City Hall, Medora, North Dakota.	
OHIO	
Amesville (village), Athens County (FEMA Docket No. 6946)	
Federal Creek:	
About 3,400 feet downstream of confluence of McDougall Branch	*631
About 2,100 feet upstream of State Street	*633
Maps available for inspection at the Village Clerk's Office, Village Hall, Amesville, Ohio.	
Auglaize County (unincorporated areas) (FEMA Docket No. 6946)	
Auglaize River:	
Just upstream of Deep Cut Road	*816
About 2,300 feet upstream of County Route 25A	*887
St. Marys River: Just upstream of Greenville Road	*863
Grand Lake St. Marys: Along shoreline	*873
Maps available for inspection at the Commissioner's Office, County Courthouse, Wapakoneta, Ohio.	
Buckland (village), Auglaize County (FEMA Docket No. 6946)	
Auglaize River:	
Just downstream of CSX railroad	*837
About 1,000 feet upstream of State Route 197	*840
Maps available for inspection at the City Hall, 109 North Main, Buckland, Ohio.	
Darke County (unincorporated areas) (FEMA Docket No. 6946)	
Greenville Creek:	
About 800 feet downstream of Conrail	*985
About 0.9 mile upstream of Jayville-St. John's Road	*1,012
Swamp Creek:	
Just upstream of State Route 121	*965
About 3.0 miles upstream of State Route 121	*971
Middle Fork East Fork Whitewater River:	
About 1,350 feet downstream of Hill Road	*1,105
About 3,760 feet upstream of Hill Road	*1,116
Maps available for inspection at the County Engineer's Office, County Courthouse, Greenville, Ohio.	
Fulton County (unincorporated areas) (FEMA Docket No. 6946)	
Swan Creek:	
About 1,700 feet downstream of County Route 1-1	*663
Just upstream of County Route L	*751
Diversion D1:	

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

Source of flooding and location	#Depth in feet above ground. ^Elevation in feet (NGVD)
About 1,700 feet downstream of Township Road 4	*682
About 0.5 mile upstream of Township Road 4	*689
Diversion D2:	
About 800 feet downstream of County Route E-F	*678
About 700 feet upstream of Norfolk Southern Railway	*687
Fewless Creek:	
About 0.8 mile downstream of County Route 3	*672
Just downstream of County Route H	*732
Stream No. 3:	
About 2,100 feet downstream of County Route E	*673
About 1,200 feet upstream of Township Road E	*677
Al Creek:	
About 1.4 miles downstream of Interstate 90	*672
Just downstream of County Route M	*746
Stream No. 7:	
About 1,800 feet downstream of County Route M	*719
Just downstream of County Route N	*728
Tenmile Creek:	
Just upstream of County Route 1	*709
Just downstream of Township Road 4-1	*727
North Tenmile Creek:	
About 1.3 miles downstream of Grand Trunk Western Railroad	*720
Just downstream of Township Road 4-1	*724
North Turkey Foot Creek:	
Just upstream of Township Road E	*731
About 0.8 mile upstream of County Route 13	*743
Bad Creek:	
Just upstream of County Route A	*667
Just downstream of State Route 109	*698
Blue Creek:	
Just upstream of Township Road 1	*666
Just downstream of Township Road C	*673
Brush Creek:	
Just upstream of Township Road 24	*712
Just downstream of County Route D	*729
Tributary A:	
About 1,400 feet downstream of County Route 1-1	*664
Just downstream of County Route 3	*691
Maps available for inspection at the County Courthouse, 210 South Fulton Street, Wauseon, Ohio.	
Gallia County (unincorporated areas) (FEMA Docket No. 6946)	
Ohio River:	
At western county boundary	*560
About 0.4 mile upstream of eastern county boundary	*574
Chickamauga Creek:	
At Gallipolis corporate limit	*569
About 2,600 feet upstream of CSX railroad	*590
Little Chickamauga Creek:	
About 400 feet downstream of CSX railroad	*569
About 0.8 mile upstream of George Creek Road	*604
Tributary A:	
At mouth	*584
About 3,100 feet upstream of mouth	*609
Tributary B:	
At mouth	*583
About 3,500 feet upstream of Bulaville-Porter Road	*619
Tributary C:	
At mouth	*570
About 700 feet upstream of Mitchell Road	*601
Tributary D:	
At mouth	*574
Just downstream of Unnamed Road	*609
Tributary E:	
At mouth	*599
About 3,500 feet upstream of mouth	*636
Tributary F:	
At mouth	*576
About 1,300 feet upstream of Kerr-Bethel Road	*621
Tributary G:	
At mouth	*583
About 1 mile upstream of Kerr-Bethel Road	*618

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

Source of flooding and location	#Depth in feet above ground. ^Elevation in feet (NGVD)
Tributary H:	
At mouth	*586
About 300 feet upstream of Green Duly Road	*633
Clear Fork:	
About 1.2 miles downstream of State Route 141	*567
Just upstream of Centenary Cemetery Road	*581
Maps available for inspection at the County Engineer's Office, State Route 160, 220 Jackson Pike, Gallipolis, Ohio.	
Greenville (city), Darke County (FEMA Docket No. 6946)	
Greenville Creek:	
About 1,425 feet downstream of U.S. Route 127	*1,010
About 550 feet upstream of abandoned railroad	*1,021
Maps available for inspection at the Municipal Building, 100 Public Square, Greenville, Ohio.	
Hamden (village), Vinton County (FEMA Docket No. 6946)	
Little Raccoon Creek:	
About 1,600 feet downstream of Wilkesville Street	*684
About 2,400 feet upstream of Wilkesville Street	*685
Tripp Run:	
Just upstream of Wilkesville Street	*685
Just downstream of CSX railroad	*694
Maps available for inspection at the Municipal Building, Railroad Street, Hamden, Ohio.	
Lawrence County (unincorporated areas) (FEMA Docket No. 6946)	
Ohio River:	
At downstream county boundary	*543
At upstream county boundary	*560
Indian Guyan Creek:	
At mouth	*554
About 0.6 mile upstream of County Route 65	*566
McKinney Creek:	
At mouth	*554
About 3,000 feet upstream of Township Road 170	*577
Symmes Creek:	
About 2,350 feet downstream of confluence of Big Branch Creek	*553
About 1,400 feet upstream of confluence of Leatherwood Creek	*563
Wolf Creek:	
At mouth	*563
About 775 feet upstream of Township Road 149	*586
Maps available for inspection at the County Commissioner's Office, County Courthouse, 111 South Fifth Street, Ironton, Ohio.	
Lynchburg (village), Highland County (FEMA Docket No. 6946)	
East Fork of Little Miami River:	
At confluence of Turtle Creek	*986
About 1,500 feet upstream of High Street	*992
Turtle Creek:	
At confluence with East Fork of Little Miami River	*986
Just upstream of CSX railroad	*997
Maps available for inspection at the Municipal Building, Lynchburg, Ohio.	
Mercer County (unincorporated areas) (FEMA Docket No. 6946)	
Wabash River:	
At county boundary	*851
At confluence of Beaver Creek	*855
Beaver Creek:	
At mouth	*855
Just downstream of Grand Lake Dam	*862
Grand Lake St. Marys:	
Along shoreline	*873

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

Source of flooding and location	#Depth in feet above ground. ^Elevation in feet (NGVD)
Maps available for inspection at the Commissioner's Office, County Courthouse, Celina, Ohio.	
St. Marys (city), Auglaize County (FEMA Docket No. 6945)	
St. Marys River:	
About 0.8 mile downstream of High Street	*856
About 550 feet upstream of Greenville Road	*863
Maps available for inspection at the Municipal Building, 101 East Spring, St. Marys, Ohio 45885.	
Versailles (village), Darke County (FEMA Docket No. 6946)	
Swamp Creek:	
About 0.4 mile downstream of Conrail	*966
About 0.6 mile upstream of Center Street	*971
Maps available for inspection at the Village Hall, Versailles, Ohio.	
Wapakoneta (city), Auglaize County (FEMA Docket No. 6946)	
Auglaize River:	
About 1.1 miles downstream of Hamilton Street	*872
About 800 feet upstream of County Route 25A	*886
Quaker Run:	
At mouth	*882
Just downstream of U.S. Route 25	*892
Maps available for inspection at the City Office Building, 102 Perry Street, Wapakoneta, Ohio.	
OKLAHOMA	
Goldsby (town), McClain County (FEMA Docket No. 6932)	
Canadian River:	
Approximately 1.9 miles upstream of River Mile 195.3	*1,084
Approximately 6.6 miles upstream of River Mile 195.3	*1,104
Crooked Bridge Creek:	
Approximately 1,800 feet downstream of State Route 74	*1,096
Approximately .5 mile upstream of State Route 746	*1,198
Goldsby Creek:	
At Interstate Route 35	*1,121
Approximately .9 mile upstream of State Route 74	*1,162
Maps available for inspection at the Goldsby Town Hall, Route 1, Washington, Oklahoma.	
OREGON	
Paisley (city), Lake County (FEMA Docket No. 6946)	
Chewaucan River:	
Approximately 750 feet downstream of State Highway 31	*4,354
Approximately 1,350 feet upstream of State Highway 31	*4,370
Approximately 250 feet upstream of Mill Street	*4,401
Maps are available for review at Paisley Community Building, 705 Chewaucan Street, Paisley, Oregon 97636.	
Wasco (city), Sherman County (FEMA Docket No. 6932)	
Spanish Hollow Creek:	
Approximately 2,500 feet downstream of Church Street (at northern corporate limits)	*1,187
Approximately 25 feet upstream of Church Street	*1,231
Just downstream of Davis Street	*1,269
Just upstream of McPhearson Street	*1,281
At eastern corporate limits	*1,306

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Maps are available for review at City Hall, 1004 Clark Street, Wasco, Oregon.	
PENNSYLVANIA	
Amwell (township), Washington County (FEMA Docket No. 6938)	
Tenmile Creek:	
Confluence of Little Tenmile Creek	*898
Upstream corporate limits	*958
Little Tenmile Creek:	
Approximately 1,200 feet downstream from L.R. 62194	*961
Approximately 2.8 miles upstream of upstream crossing of L.R. 62194	*1,015
Montgomery Run:	
Confluence with Tenmile Creek	*931
Approximately 1,500 feet upstream of Interstate Route 79	*992
Brush Run:	
Confluence with Little Tenmile Creek	*963
Approximately .7 mile upstream of T-726	*1,122
Maps available for inspection at the Amwell Township Building, Amwell, Pennsylvania.	
Barnesboro (borough), Cambria County (FEMA Docket No. 6946)	
West Branch Susquehanna River:	
At downstream corporate limits	*1,437
At upstream corporate limits	*1,457
Walnut Run:	
At confluence with West Branch Susquehanna River	*1,447
At upstream corporate limits	*1,480
Porter Run:	
At confluence with West Branch Susquehanna River	*1,446
Approximately 45 feet upstream of L.R. 11087	*1,458
Maps available for inspection at the Borough Office, First United Federal Building, 10th and Maple Streets, Barnesboro, Pennsylvania.	
Bedford (township), Bedford County (FEMA Docket No. 6946)	
Raystown Branch Juniata River:	
Approximately 150 feet downstream of the upstream corporate limits with the Borough of Bedford	*1,063
Approximately 0.5 mile upstream of U.S. Route 30	*1,100
Texas Run:	
At downstream corporate limits	*1,071
Approximately 0.5 mile upstream of Blanche Street	*1,100
Dunning Creek:	
Approximately 200 feet downstream of CONRAIL	*1,054
At upstream corporate limits	*1,079
Maps available for inspection at the Municipal Building, R.D. #1, Valley Road, Bedford, Pennsylvania.	
Confluence (borough) Somerset County (FEMA Docket No. 6946)	
Youghiogheny River:	
Approximately 1,450 feet upstream of corporate limits	*1,324
At upstream corporate limits	*1,326
Casselman River:	
At confluence with Youghiogheny River	*1,325
Approximately 250 feet upstream of corporate limits	*1,348
Laurel Hill Creek:	
At confluence with Casselman River	*1,326
Approximately 1,600 feet upstream of corporate limits	*1,332
Maps available for inspection at the Borough Office, Confluence, Pennsylvania.	

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Falls Creek (borough), Jefferson and Clearfield Counties (FEMA Docket No. 6946)	
Falls Creek:	
Approximately 50 feet downstream of corporate limits	*1,399
Approximately 100 feet upstream of corporate limits	*1,440
Maps available for inspection in care of Patricia J. Gundrum, Borough Secretary, 117 Taylor Avenue, Falls Creek, Pennsylvania.	
Hopewell (borough), Bedford County (FEMA Docket No. 6938)	
Raystown Branch Juniata River:	
Approximately 715 feet downstream of State Route 915	*872
Approximately 325 feet upstream of confluence of Sandy Run	*881
Maps available for inspection at the residence of Jeanne Hall, Broad Street, Hopewell, Pennsylvania.	
Hopewell (township), Bedford County (FEMA Docket No. 6946)	
Raystown Branch Juniata River:	
Approximately 450 feet upstream of downstream corporate limits	*876
Approximately 4.1 miles upstream of Legislative Route 05056	*916
Yellow Creek:	
Approximately 500 feet downstream of T-655	*876
Approximately 1,570 feet upstream of State Route 36	*1,081
Maps available for inspection at the Township Building, Route 26—South of Kountry Kettle Restaurant (Voting Building), Everett, Pennsylvania.	
Jackson (township), Butler County (FEMA Docket No. 6938)	
Connoquenessing Creek:	
At downstream corporate limits	*899
At upstream corporate limits	*921
Little Connoquenessing Creek:	
At confluence with Connoquenessing Creek	*912
At upstream corporate limits	*931
Breakneck Creek:	
At confluence with Connoquenessing Creek	*914
Approximately .1 mile upstream of corporate limits	*928
Scholars Run:	
At confluence with Connoquenessing Creek	*906
At upstream corporate limits	*942
Maps available for inspection at the Township Secretary's Office, Box 69, Zelienople, Pennsylvania.	
Lilly (borough), Cambria County (FEMA Docket No. 6946)	
Little Conemaugh River:	
At downstream corporate limits	*1,862
0.2 of a mile upstream of Church Street	*1,905
Bear Rock Run:	
At confluence with Little Conemaugh River	*1,881
At upstream corporate limits	*1,935
Maps available for inspection at 503 Main Street, Lilly, Pennsylvania.	
Manns Choice (borough), Bedford County (FEMA Docket No. 6946)	
Buffalo Run:	
Downstream corporate limits	*1,131
Approximately 540 feet upstream of State Route 31/96	*1,135
Raystown Branch Juniata River: Upstream and downstream corporate limits	*1,130

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Maps available for inspection at the Borough Building, Main Street, Manns Choice, Pennsylvania.	
Nanty Glo (borough), Cambria County (FEMA Docket No. 6946)	
South Branch Blacklick Creek:	
At downstream corporate limits	*1,700
At upstream corporate limits	*1,711
Davis Run:	
At confluence with South Branch Blacklick Creek	*1,710
Approximately 50 feet upstream of Bell Street	*1,787
Maps available for inspection at the Nanty Glo Municipal Building, Chestnut Street, Nanty Glo, Pennsylvania.	
Napier (township), Bedford County (FEMA Docket No. 6946)	
Raystown Branch Juniata River:	
Approximately 0.4 mile downstream of State Highway 31	*1,112
At confluence of Shawnee Branch	*1,141
Approximately 0.4 mile upstream of T-418	*1,170
Maps available for inspection at the Old Shellsburg Elementary School, Route 96, Shellsburg, Pennsylvania.	
Penn (township), Centre County (FEMA Docket No. 6946)	
Elk Creek:	
Approximately 1,400 feet downstream of L.R. 873	*1,066
At upstream corporate limits	*1,079
Pine Creek:	
At confluence with Penns Creek	*1,028
At upstream corporate limits	*1,036
Penns Creek:	
Approximately 2,100 feet downstream of L.R. 873	*1,026
Approximately 1,900 feet upstream of L.R. 873	*1,031
Maps available for inspection in c/o Barbara Shaffer, Township Secretary, R.D. 1, Box 15, Coburn, Pennsylvania (2 miles outside of Coburn on Long Lane).	
Pike (township), Clearfield County (FEMA Docket No. 6941)	
Anderson Creek:	
Approximately .33 mile downstream from downstream corporate limits	*1,161
Approximately .25 mile upstream from T-206	*1,199
Maps available for inspection at the Township Building, Route 879, Curwensville, Pennsylvania.	
Sandy (township), Clearfield County (FEMA Docket No. 6946)	
Sandy Lick Creek:	
At downstream corporate limits	*1,396
Approximately 1.1 miles upstream of Platt Road	*1,418
Clear Run:	
At confluence of Sandy Lick Creek	*1,397
Approximately 0.6 mile upstream of Clear Run Road	*1,445
Maps available for inspection at the Municipal Building, in care of Wick Marsh, 12th and Chestnut Streets, Sandy, Pennsylvania.	
Snyder (township), Jefferson County (FEMA Docket No. 6946)	
Little Toby Creek:	
Approximately .75 mile downstream of Pittsburgh and Shawmut Railroad	*1,448
Approximately 1.9 miles upstream of T-572	*1,469
Rattlesnake Creek:	
Approximately 350 feet downstream of CONRAIL	*1,449
Approximately .6 mile upstream of L.R. 33048	*1,478

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Maps available for inspection in care of John A. Ross, Township Supervisor, R.D. 1, Brockway, Pennsylvania.	
Washington (township), Jefferson County (FEMA Docket No. 6946)	
Falls Creek:	
Approximately 175 feet downstream of corporate limits	*1,439
Approximately 1.4 miles upstream of corporate limits	*1,498
Maps available for inspection in care of V.E. Lundberg, R.D. 1, Falls Creek, Pennsylvania.	
TENNESSEE	
Chattanooga (city), Hamilton County (FEMA Docket No. 6946)	
Ninemile Branch:	
About 0.5 mile downstream of Old Dayton Pike	*684
About 1.9 miles upstream of Old Dayton Pike	*764
Friar Branch:	
At mouth	*673
About 1.3 miles upstream of Silverdale Road	*808
Black Creek:	
At mouth	*655
About 0.6 mile upstream of U.S. Route 11	*684
Mackey Branch:	
At mouth	*690
Just upstream of Shallowford Road	*752
Ryall Springs Branch:	
At mouth	*690
Just upstream of Morris Hill Road	*742
Maps available for inspection at the Chattanooga/Hamilton County Regional Planning Commission, City Hall Annex, 100 East 11th Street, Chattanooga, Tennessee.	
Hamilton County (unincorporated areas) (FEMA Docket No. 6946)	
Hurricane Creek:	
About 1,400 feet downstream of confluence of Hurricane Creek Tributary	*737
At confluence of Johnson Branch	*825
Johnson Branch:	
At mouth	*825
Just downstream of East Brainerd Road	*851
Possum Creek:	
At mouth	*687
About 1.3 miles upstream of Back Valley Road	*861
Ryall Springs Branch:	
About 500 feet downstream of Private Drive	*743
About 1,300 feet upstream of Royal Shadows Drive	*851
Savannah Creek:	
At mouth	*687
Just downstream of Smith Road	*747
Ninemile Branch:	
At mouth	*676
About 1,050 feet downstream of Old Dayton Pike	*691
North Chickamauga Creek:	
Just upstream of Lower Hill Road	*670
About 2.0 miles upstream of Thrasher Pike	*753
Pitts Branch:	
At mouth	*676
Just upstream of Boy Scout Road	*676
Mackey Branch:	
About 1,300 feet downstream of Shallowmeade Lane	*752
About 0.4 mile upstream of Hickory Ridge Drive	*811
Hurricane Creek Tributary:	
At mouth	*741
Just downstream of Ringgold Road	*815
Wolftever Creek:	
At mouth	*687
Just downstream of McDonald Road	*807
Little Wolftever Creek:	
At mouth	*751
Just downstream of White Oak Valley Road	*819
Falling Water Creek:	
At mouth	*676

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
About 2050 feet above unnamed road	*805
Maps available for inspection at the Chattanooga/Hamilton County Regional Planning Commission, City Hall Annex, 100 East 11th Street, Chattanooga, Tennessee.	
Martin (city), Weakley County (FEMA Docket No. 6946)	
Cane Creek Tributary:	
At mouth	*346
Just downstream of Illinois Central Gulf Railroad	*381
Cane Creek:	
Just upstream of Mount Pelia Road	*337
Just upstream of K Street	*387
Maps available for inspection at the City Hall, 101 University Street, Martin, Tennessee.	
TEXAS	
Muleshoe (city), Bailey County (FEMA Docket No. 6946)	
Blackwater Draw:	
At the downstream corporate limits	*3,775
Approximately 1.4 miles upstream of upstream corporate limits	*3,802
Playa No. 2—Outflow:	
At corporate limits	*3,775
Approximately 125 feet upstream of Country Club Drive	*3,786
Blackwater Draw Diversion:	
Approximately 650 feet downstream of West Avenue J	*3,794
Approximately .6 mile upstream of upstream corporate limits	*3,802
Maps available for inspection at 215 South 1st Street, Muleshoe, Texas.	
UTAH	
Tooele (city), Tooele County (FEMA Docket No. 6946)	
Settlement Canyon:	
At corporate limits, approximately 200 feet downstream of Tooele Ordnance Depot Road	*4,836
Approximately 1,150 feet downstream of West Vine Street	*4,890
Approximately 140 feet downstream of Airport Road	*4,960
Approximately 2,530 feet downstream of Coleman Street	*5,013
Approximately 130 feet downstream of Pioneer Avenue	*5,129
Approximately 2,510 feet upstream of State Highway 36	*5,230
Middle Canyon Creek:	
Approximately 720 feet downstream of State Highway 36	*4,740
Approximately 2,810 feet downstream of 1000 North Road	*4,830
Approximately 620 feet upstream of 1000 North Road	*4,920
Approximately 750 feet downstream of State Highway 178	*5,010
Approximately 1,420 feet upstream of Third North Street	*5,099
Unnamed Canyon:	
Approximately 280 feet upstream of Second South Street	*5,200
Approximately 540 feet upstream of Seventh Street	*5,260
Approximately 210 feet upstream of Skyline Avenue	*5,325
Unnamed Canyon Tributary:	
At confluence with Unnamed Canyon	*5,266
Approximately 520 feet upstream of Skyline Avenue	*5,324
Unnamed Canyon No. 2:	
Approximately 130 feet downstream of Buzianis Road	*5,201
Approximately 975 feet upstream of Buzianis Road	*5,260

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Approximately 2,135 feet upstream of Buzianis Road	*5,324
Maps are available for inspection at the Engineering Department, City Hall, 90 North Main Street, Tooele, Utah.	
VIRGINIA	
Appalachia (town), Wise County (FEMA Docket No. 6938)	
Powell River:	
Approximately 840 feet downstream of confluence of Pigeon Creek	*1,609
Approximately 420 feet upstream of N&W Railroad	*1,657
Callahan Creek:	
At confluence with Powell River	*1,644
Approximately 1.10 miles upstream of Callahan Avenue	*1,674
Looney Creek:	
Approximately .40 mile downstream of North Main Street	*1,646
Approximately 1.06 miles upstream of North Inman Street	*1,774
Maps available for inspection at the Town Hall, Appalachia, Virginia.	
Floyd County, (unincorporated areas) (FEMA Docket No. 6938)	
Little River (Lower Reach):	
Approximately 1.0 mile downstream of State Road 787	*1,899
Approximately 1,250 feet upstream of Old Mill Dam	*2,101
Little River (Middle Reach):	
Approximately 1,025 feet downstream of State Road 706	*2,109
Approximately 2,300 feet upstream of State Road 706	*2,113
Little River (Upper Reach):	
Approximately 0.67 mile downstream of U.S. Route 221	*2,240
Approximately 0.64 mile upstream of U.S. Route 221	*2,249
Dodd Creek (Lower Reach):	
Approximately 200 feet upstream of confluence with West Fork Little River	*2,174
Approximately 1,700 feet upstream of State Highway 8	*2,195
Dodd Creek (Upper Reach):	
Approximately 600 feet downstream of U.S. Route 221	*2,246
At State Road 720	*2,260
West Fork Little River:	
Approximately 0.7 mile downstream of State Highway 8	*2,167
Approximately 0.8 mile upstream of State Highway 8	*2,183
Pine Creek:	
Approximately 1,440 feet downstream of U.S. Route 221	*2,258
Approximately 800 feet upstream of State Road 860	*2,332
Meadow Run:	
Approximately 1,450 feet downstream of State Road 642	*2,468
Approximately 1,050 feet upstream of U.S. Route 221	*2,520
Maps available for inspection at the County Administrator's Office, Courthouse Complex, Floyd, Virginia.	
WASHINGTON	
Auburn (city), King County (FEMA Docket No. 6946)	
Green River (With Levees):	
Approximately 0.1 mile downstream of corporate limits	*49
Approximately 100 feet upstream of pedestrian bridge	*56
Approximately 0.5 mile upstream of 8th Street	*65

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

Source of flooding and location	#Depth in feet above ground. ²Elevation in feet (NGVD)
Green River (Without Levees):	
Approximately 0.35 mile upstream of Green Valley Road	*87
Approximately 0.94 mile upstream of Green Valley Road	*92
Mill Creek (Auburn):	
Approximately 100 feet upstream of State Highway 167	*42
Approximately 300 feet upstream of 29th Street	*48
Approximately 1,200 feet downstream of West Main Street	*60
Approximately 100 feet upstream of State Highway 18	*66
At State Highway 167	*69
Areas of Ponding:	
Between 35th and 37th Streets, approximately 2,000 feet east of East Valley Highway	*52
Approximately 300 feet east of end of 37th Street	*52
On east side of Green River Road, approximately 1,000 feet east of end of 37th Street	*52
On east side of Green River Road, approximately 1,300 feet east of end of 30th Street	*52
Area between Auburn-Black Diamond Road and State Highway 18, approximately 3,500 feet east of Burlington Northern Railroad crossing of Auburn—Black Diamond Road	*57

Maps are available for inspection at City Hall, 25 West Main Street, Auburn, Washington.

Bellevue (city), King County (FEMA Docket No. 6946)

Lake Sammamish:	
Approximately 450 feet east of intersection of West Lake Sammamish Parkway NE. and Rosemont Place NE	*33
Approximately 550 feet east of intersection of West Lake Sammamish Parkway SE. and NE. 2nd Street	*33

Maps are available for review at City Hall, 11511 Main Street, Bellevue, Washington.

Kent (city), King County (FEMA Docket No. 6946)

Mill Creek (Kent):	
Just upstream of South 226th Street	*31
At Private Road Bridge	*36
Just upstream of East Titus Street	*41
Mill Creek (Auburn):	
At confluence with Green River	*42
At West Valley Highway South	*42
Green River (without levees):	
Approximately 1,050 feet southwest of intersection of Andover Park West and C Drive	*29
Approximately 1,000 feet northwest of intersection of Kent-Des Moines and Frager Roads	*36
Approximately 600 feet north of confluence with Mill Creek (Auburn)	*41
Approximately 1,000 feet north of South 266th Street, between Central Avenue and Burlington Northern Railroad	*43
Green River (with levees):	
Approximately 3,665 feet upstream of Bike Trail Bridge, at end of South 194th Street	*29
Approximately 4,340 feet downstream of South 212th Street	*31
Approximately 2,960 feet downstream of South 212th Street	*32
Just upstream of confluence with Midway Creek	*36
At State Route 516	*39
Just downstream of Chicago, Milwaukee, St. Paul and Pacific Railroad	*42
Just upstream of Burlington Northern Railroad	*44
Just west of intersection of Green River Road and 94th Place South	*47

Maps are available for review at City Hall, 220 Fourth Avenue South, Kent, Washington.

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

Source of flooding and location	#Depth in feet above ground. ²Elevation in feet (NGVD)
King County (unincorporated areas) (FEMA Docket No. 6946)	
Raging River:	
At Interstate Highway 90	*426
Approximately 120 feet upstream of confluence with Lake Creek	*542
Approximately 1,800 feet upstream of Upper Preston Road SE	*672
Green River (without levees):	
Approximately 1,050 feet downstream of Pacific Highway (State Route 99)	*9
Just downstream of Interstate Highway 5	*13
Approximately 3,430 feet upstream of 56th Avenue South	*17
Approximately 1,700 feet north of intersection of South 196th Street and Russell Road	*29
Approximately 1,300 feet southwest of intersection of Frager Road and State Route 516	*39
Approximately 2,300 feet west of intersection of South 262nd and South 68th Streets	*41
Approximately 800 feet north of intersection of South 79th Avenue and South 266th Street	*43
Approximately 1,000 feet east of intersection of 14th Street NE. and O Street NE	*61
Approximately 900 feet downstream of State Route 18	*71
Approximately 1,800 feet upstream of Auburn-Black Diamond Road	*77
Approximately 1,600 feet upstream of Green Valley Road	*87
Approximately 300 feet upstream of confluence with Newaukum Creek	*155
Just downstream of Flaming Geyser Bridge	*197
Green River (with levees):	
Approximately 7,200 feet upstream of bike trail bridge	*30
Approximately 3,000 feet downstream of South 212th Street	*32
At confluence with Mullen Slough	*38
Approximately 600 feet downstream of West Valley Highway	*41
At Chicago, Milwaukee, St. Paul and Pacific Railroad	*42
Approximately 750 feet downstream of Burlington Northern Railroad	*44
Approximately 4,200 feet upstream of East Valley Highway	*46
Approximately 5,600 feet downstream of pedestrian bridge	*52
Approximately 500 feet upstream of pedestrian bridge	*56
At State Route 18	*74
Mill Creek:	
Approximately 100 feet upstream of West Valley Highway (South 68th Street)	*42
At South 269th Street	*42
Approximately 300 feet west of intersection of West Valley Highway and South 285th Street	*42
Approximately 700 feet downstream of State Route 167	*42
Big Soos Creek:	
Approximately 200 feet downstream of Burlington Northern Railroad	*171
Approximately 100 feet upstream of confluence with Jenkins Creek	*273
Approximately 325 feet downstream of 256th Street SE	*324
Approximately 250 feet downstream of 208th Street SE	*355
At 182nd Street SE	*380
Approximately 1,150 feet upstream of 122nd Place SE	*397
Swamp Creek:	
Approximately 1,070 feet upstream of confluence with Sammamish River	*17
Just upstream of 73rd Avenue NE	*44
Approximately 100 feet downstream of 204th Street NE	*82
North Creek:	
At confluence with Sammamish River	*23
Approximately 150 feet downstream of Interstate Highway 405	*26

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

Source of flooding and location	#Depth in feet above ground. ²Elevation in feet (NGVD)
Approximately 200 feet upstream of Interstate Highway 405	*27
Approximately 475 feet upstream of Interstate Highway 405	*28
Little Bear Creek:	
Just upstream of the confluence with Sammamish River	*24
Just downstream of State Route 522 Northbound	*74
Approximately 3,100 feet upstream of 195th Street NE	*111
Bear Creek:	
At confluence with Sammamish River	*32
Approximately 1,050 feet upstream of confluence with Sammamish River	*32
Approximately 1,650 feet upstream of confluence with Sammamish River	*34
Approximately 1,800 feet downstream of Burlington Northern Railroad bridge	*35
Approximately 1,500 feet downstream of Burlington Northern Railroad bridge (at corporate limits for Redmond)	*36
Approximately 100 feet upstream of Avondale Road	*91
Just downstream of 148th Street NE	*165
Approximately 3,550 feet upstream of private road off Woodinville-Duvall Road	*258
Issaquah Creek	
Approximately 175 feet upstream of May Valley Road SE	*226
Just downstream of Cedar Grove Road	*293
Approximately 60 feet downstream of confluence with Carey and Holder Creeks	*396
West Fork Issaquah Creek:	
Approximately 100 feet downstream of 229th Drive SE	*232
Approximately 75 feet downstream of 217th Street SE	*314
Approximately 150 feet downstream of 128th Way SE	*325
Holder Creek:	
At confluence with Carey and Issaquah Creeks	*398
Approximately 3,000 feet upstream of confluence with Carey and Issaquah Creeks	*444
Approximately 610 feet upstream of State Route 18 Access Road	*493
May Creek:	
At Coal Creek Parkway	*265
Just downstream of 148th Avenue SE	*310
Just downstream of Renton-Issaquah Road SE	*325
Approximately 150 feet downstream of 109th Avenue SE	*341
May Creek Tributary:	
Approximately 300 feet upstream of confluence with May Creek	*328
Just upstream of 188th Avenue SE	*329
Tolt River:	
Approximately 6,300 feet upstream of Chicago, Milwaukee, St. Paul and Pacific Railroad	*128
Approximately 8,030 feet upstream of Chicago, Milwaukee, St. Paul and Pacific Railroad	*141
Approximately 17,480 feet upstream of Chicago, Milwaukee, St. Paul and Pacific Railroad	*196
Approximately 29,030 feet upstream of Chicago, Milwaukee, St. Paul and Pacific Railroad	*275

Maps are available for inspection at the Building and Land Development Division, 3600 136th Place SE., Bellevue, Washington.

Redmond (city), King County (FEMA Docket No. 6946)

Bear Creek:	
Approximately 1,500 feet downstream of Burlington Northern Railroad Bridge (at corporate limits)	*36
Downstream side of Burlington Northern Railroad Bridge	*39
Upstream side of Burlington Northern Railroad Bridge	*40
Approximately 100 feet upstream of State Highway 202	*42
Lake Sammamish:	

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Approximately 1,100 feet east of intersection of West Lake Sammamish Parkway NE. and Redmond-Bellevue Road	*33
Approximately 325 feet east of intersection of West Lake Sammamish Parkway NE. and NE. 24th Street	*33
Maps are available for review at City Hall, 15670 NE. 85th Street, Redmond, Washington.	
Renton (city), King County (FEMA Docket No. 6946)	
Green River (Without Levees):	
Approximately 1,340 feet south along Union Pacific Railroad from confluence with Black River	*20
Springbrook Creek:	
At confluence with Black River	*15
At Southwest 16th Street	*16
Cedar River:	
Approximately 200 feet upstream of North Boeing Bridge	*15
Just downstream of South Boeing Bridge	*23
Approximately 50 feet downstream of Houser Way North	*32
Approximately 2,340 feet upstream of Interstate Highway 405	*40
Rolling Hills Creek:	
Just south of SW. Grady Way, approximately 400 feet east of Hardie Avenue SW.	*24
Approximately 1,500 feet west of Talbot Road South along South Renton Village Place	*24
Maps are available for inspection at City Hall, 200 Mill Avenue South, Renton, Washington.	
Seattle (city), King County (FEMA Docket No. 6946)	
Thornton Creek:	
Approximately 120 feet downstream of footbridge	*15
Approximately 40 feet upstream of Sand Point Way NE	*23
At NE 104th Street	*38
Approximately 50 feet downstream of pedestrian walkway	*49
North Fork Thornton Creek:	
Approximately 225 feet upstream of pedestrian walkway	*50
Just downstream of 35th Avenue NE	*85
Just upstream of Lake City Way NE	*130
Approximately 40 feet upstream of NE. 125th Street	*178
Just downstream of 19th Avenue NE	*211
Approximately 60 feet upstream of 10th Avenue NE	*254
South Fork Thornton Creek:	
Approximately 20 feet upstream of confluence with Thornton Creek	*50
Just upstream of Lake City Way NE	*122
Just downstream of 15th Avenue NE	*180
Approximately 40 feet downstream of 5th Avenue NE	*241
Longfellow Creek:	
Approximately 20 feet upstream of SW. Brandon Street	*117
Approximately 50 feet downstream of SW. Myrtle Street	*166
Approximately 1,845 feet upstream of SW. Holden Street	*253
Shallow Flooding:	
Approximately 350 feet north and 100 feet east of intersection of N. 125th Street and Ashworth Avenue North	#3
Maps are available for inspection at the City Department of Construction and Land Use, City Hall, 500 4th Avenue, Seattle, Washington.	
Tukwila (city), King County (FEMA Docket No. 6946)	
Green River (Without Levees):	
Approximately 4,382 feet downstream of Interstate Highway 5	*11

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Approximately 2,300 feet downstream of footbridge	*18
At confluence with Black River	*19
Green River (With Levees):	
At confluence with Black River	*19
Just upstream of Strander Boulevard	*24
At corporate limits	*29
Maps are available for inspection at City Hall, 6200 Southcenter Boulevard, Tukwila, Washington.	
WEST VIRGINIA	
Durbin (town), Pocahontas County (FEMA Docket No. 6946)	
West Fork Greenbrier River:	
At confluence of Greenbrier River	*2,713
Approximately 220 feet downstream of U.S. Route 250	*2,747
Greenbrier River:	
Approximately 350 feet downstream of corporate limits	*2,706
Approximately 100 feet downstream of confluence of West Fork Greenbrier River	*2,712
East Fork Greenbrier River:	
Approximately 100 feet above confluence with Greenbrier River	*2,713
Approximately 460 feet upstream of corporate limits	*2,722
Maps available for inspection at the Mayor's Office, Main Street, Durbin, West Virginia.	
Marlinton (town), Pocahontas County (FEMA Docket No. 6946)	
Greenbrier River:	
Approximately .6 mile downstream of downstream corporate limits	*2,123
Approximately .64 mile upstream of State Route 39	*2,133
Knapp Creek:	
At confluence with Greenbrier River	*2,126
At upstream corporate limits	*2,156
Maps available for inspection at the Municipal Building, 709 Second Avenue, Marlinton, West Virginia.	
Pocahontas County (unincorporated areas) (FEMA Docket No. 6946)	
Greenbrier River:	
Approximately 700 feet downstream of Route 27-3	*2,051
Approximately 0.7 mile upstream of State Route 39	*2,133
Approximately 1,600 feet downstream of confluence of Deer Creek	*2,415
Approximately 200 feet upstream of confluence of Leatherbark Run	*2,447
Approximately 350 feet downstream of Town of Durbin corporate limits	*2,706
Approximately 560 feet downstream of confluence of West Fork Greenbrier River	*2,710
East Fork Greenbrier River:	
At Town of Durbin corporate limits	*2,722
Approximately 800 feet above confluence of Gum Cabin Hollow	*2,926
Deer Creek:	
At confluence with Greenbrier River	*2,420
Approximately 2,000 feet upstream of confluence with Greenbrier River	*2,430
Approximately 4 miles upstream of confluence with Greenbrier River	*2,541
Approximately 1,100 feet upstream of County Route 7-1	*2,567
North Fork:	
At confluence with Deer Creek	*2,567
Approximately 1.6 miles upstream of County Route 6	*2,871
Knapp Creek:	
At confluence with Greenbrier River	*2,125
At confluence of Douthat Creek	*2,314
Approximately 900 feet above State Route 92	*2,577
Sugar Camp Run:	

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
At confluence with Knapp Creek	*2,523
Approximately 80 feet upstream of County Route 13	*2,565
Douthat Creek:	
At confluence with Knapp Creek	*2,314
Approximately 0.4 mile above confluence of Wade Hollow	*2,431
Cummings Creek:	
At confluence with Knapp Creek	*2,216
Approximately 0.4 mile above confluence of Shrader Hollow	*2,380
Browns Creek:	
At confluence with Knapp Creek	*2,215
Approximately 80 feet upstream of County Route 11-6	*2,359
Stamping Creek:	
At confluence with Greenbrier River	*2,059
Approximately 0.7 mile upstream of confluence of Blue Lick Run	*2,553
Big Spring Fork:	
At confluence with Elk River and Old Field Fork	*2,670
Approximately 0.6 mile above CSX Transportation	*2,682
Elk River:	
At confluence of Laurel Run	*2,667
Approximately 300 feet above confluence of Laurel Run	*2,670
Old Field Fork:	
Confluence of Big Spring Fork	*2,670
Approximately 1.4 miles above confluence of Mill Creek	*2,922
Swago Creek:	
At confluence with Greenbrier River	*2,103
Approximately 350 feet above confluence of McClintock Run	*2,192
Maps available for inspection at the County Courthouse, 10th Avenue, Marlinton, West Virginia.	
WISCONSIN	
Barron (city), Barron County (FEMA Docket No. 6946)	
Yellow River:	
About 3,500 feet downstream from confluence of Quaderer Creek	*1,084
About 1,100 feet upstream from Mill Street Dam	*1,115
Quaderer Creek:	
At mouth	*1,090
Just upstream of Mill Street	*1,110
Maps available for inspection at the City Hall, 307 East La Salle Street, Barron, Wisconsin.	
Barron County (unincorporated areas) (FEMA Docket No. 6946)	
Red Cedar River:	
At southern county boundary	*1,004
Just upstream of confluence of Unnamed Tributary to Red Cedar River	*1,112
Yellow River:	
At mouth	*1,057
About 0.86 mile upstream of Mill Street at the City of Barron	*1,115
Rice Lake: Along shoreline	*1,125
Lightning Creek:	
About 2,100 feet downstream of Alma Street	*1,167
Just downstream of Alma Street	*1,171
Maps available for inspection at the Zoning Office, County Courthouse, 300 East La Salle, Barron, Wisconsin.	
Boaz (village), Richland County (FEMA Docket No. 6946)	
Mill Creek:	
About 0.6 mile downstream of State Highway 171	*736
About 1,150 feet upstream of State Highway 171	*740
Maps available for inspection at the Clerk's Office, Village Hall, Boaz, Wisconsin.	

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Brodhead (city), Green County (FEMA Docket No. 6946)	
Sugar River:	
About 1,000 feet downstream of Soo Line Railroad	*781
About 1 mile upstream of confluence of Decatur Raceway	*784
Decatur Raceway:	
At confluence with Sugar River	*783
About 350 feet upstream of County Highway F	*787
Maps available for inspection at the City Hall, 1103 West 2nd Avenue, Brodhead, Wisconsin.	
Rosendale (village), Fond du Lac County (FEMA Docket No. 6946)	
Unnamed Creek:	
About 2,300 feet downstream of Hill Road	*879
About 0.84 mile upstream of Main Street	*906
Maps available for inspection at the Municipal Building, 208 North Main Street, Rosendale, Wisconsin.	
WYOMING	
Rock Springs (City), Sweetwater County (FEMA Docket No. 6906)	
Bitter Creek:	
At downstream corporate limit	*6214
At upstream corporate limit	*6267
Sweetwater Creek:	
At downstream face of Railroad Access Road	*6231
At upstream corporate limit	*6255
Deadhorse Canyon Creek:	
700 feet west of intersection of Blair Avenue and Hickory Street	*6242
660 feet downstream of Union Pacific Railroad crossing	*6256
At upstream corporate limit	*6387
50 feet north of a point located 1,000 feet southeast along State Route 430 from its intersection with Country Club Drive	#1
At intersection of Elk Street and 2nd Street	#2
Tributary No. 1:	
At downstream face of Sunset Drive	*6222
300 feet south of a point 1,500 feet southwest along Foothills Blvd. from its intersection with Ankeny Way	*6225
At downstream face of Dewar Drive at its intersection with Foothills Blvd.	*6233
Just upstream of Dewar Drive	*6234
At southwesternmost intersection of Commercial Way and Foothills Blvd	#1
At intersection of Sierra Road and Sandy Road	#2
Tributary No. 2:	
At confluence with Deadhorse Canyon Creek, 228 feet upstream along Deadhorse Canyon Creek from the State Highway 430 bridge	*6363
400 feet upstream from the bridge crossing at the intersection of Donalyn Drive and Country Club Drive	*6406
Killpecker Creek:	
At the confluence of Bitter Creek, located 3,050 feet downstream of Spring Drive	*6247
At upstream corporate limit	*6302
Maps are available for review at the Department of Public Works, 212 D Street, Rock Springs, Wyoming 82901.	

The base (100-year) flood elevations are finalized in the communities listed below. Elevations at selected locations in each community are shown. Any appeals of the proposed base flood elevations which were received have been resolved by the Agency.

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
CALIFORNIA	
Novato (city), Marin County (FEMA Docket No. 6946)	
Novato Creek:	
Approximately 3,000 feet downstream of Southern Pacific Railroad, 1,600 feet east of U.S. Highway 101	*7
Approximately 120 feet downstream of Southern Pacific Railroad, 1,600 feet east of U.S. Highway 101	*8
Just upstream of Old U.S. Highway 101 Bridge (Redwood Highway)	*11
Just downstream of Grant Avenue	*34
Approximately 100 feet upstream of Sutro Avenue	*88
Approximately 2,850 feet upstream of Sutro Avenue	*100
Warner Creek:	
Approximately 100 feet downstream of South Novato Boulevard	*13
Approximately 125 feet upstream of Tamalpais Avenue	*22
Approximately 1,000 feet upstream of McClay Avenue	*41
Vineyard Creek:	
At confluence with Warner Creek	*41
Approximately 80 feet upstream of Wilson Avenue	*61
Just upstream of Trumbull Avenue	*90
Approximately 1,325 feet upstream of Mill Road	*118
Approximately 1,400 feet upstream of confluence with Unnamed Tributary to Vineyard Creek	*143
Unnamed Tributary to Vineyard Creek:	
Approximately 175 feet upstream of Angelica Court	*133
Approximately 300 feet upstream of Private Drive	*146
Wilson Creek:	
At confluence with Warner Creek	*32
Approximately 100 feet upstream of Center Road	*40
Approximately 50 feet upstream of McClay Avenue	*57
Approximately 525 feet upstream of Shields Lane	*79
Arroyo San Jose Creek:	
Just upstream of St. Andrews Drive	*189
Approximately 970 feet upstream of St. Andrews Drive	*200
Approximately 1,360 feet upstream of St. Andrews Drive	*220
Pacheco Creek:	
Approximately 2,700 feet downstream of Skeet Range Road	*9
Just downstream of Skeet Range Road	*20
Just upstream of Entrance Road	*42
Maps are available for review at the Department of Community Development, Engineering Section, 901 Sherman Avenue, Novato, California.	
Petaluma (city), Sonoma County (FEMA Docket No. 6932)	
Petaluma River:	
At U.S. Highway 101	*7
Just downstream of Payran Street	*16
At confluence with North Corona Channel	*26
Just upstream of North Petaluma Boulevard (southbound lane)	*33
At upstream corporate limits	*36
Adobe Creek:	
At confluence with Petaluma River	*7
Just downstream of South McDowell Boulevard exit	*13
Just upstream of Sartori Drive	*26
Just downstream of Casa Grande Road	*73
Thompson Creek:	
Approximately 90 feet downstream of 8th Street Bridge	*22
At corporate limits	*41
Kelly Creek:	
Just upstream of 8th Street	*28

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Approximately 50 feet upstream of 12th Street Footbridge	*55
Washington Creek:	
Just upstream of Madison Street	*17
Just upstream of Maria Drive	*37
Approximately 70 feet downstream of corporate limits	*78
East Washington Creek:	
Just upstream of Washington Street	*34
Just upstream of Maria Drive	*37
Just upstream of Ely Boulevard	*56
Approximately 100 feet downstream of corporate limits	*82
Lynch Creek:	
At confluence with Petaluma River	*17
Just upstream of U.S. Highway 101 (northbound)	*20
Just upstream of Maria Drive	*41
Just downstream of Ely Boulevard	*53
Just upstream of Ely Boulevard	*61
Capri Creek:	
At confluence with Petaluma River	*20
Approximately 200 feet upstream of McDowell Boulevard	*32
Just downstream of Ely Boulevard	*49
Corona Creek:	
At confluence with Capri Creek	*26
North Corona Channel:	
At confluence with Petaluma River	*26
Just downstream of U.S. Mail Driveway	*29
Willow Brook:	
At confluence with Petaluma River	*36
Just downstream of Old Redwood Highway	*40
Shallow Flooding:	
Ponding at Napa Court	*26
At intersection of McDowell Boulevard North and Scott Street	#2
At intersection of Scott Street and Holm Road	#3
Maps are available for review at the Community Development and Planning Department, 11 English Street, Petaluma, California.	
Redding (city), Shasta County (FEMA Docket No. 6946)	
Churn Creek:	
Approximately 150 feet downstream of Interstate Highway 5	*629
Approximately 60 feet downstream of Oasis Road	*641
Approximately 3,325 feet upstream of Oasis Road	*661
Olney Creek:	
Approximately 1,010 feet upstream of Sacramento Drive	*461
At upstream side of Southern Pacific Railroad	*472
Just upstream of Anderson Cottonwood Irrigation District Canal	*477
Clover Creek:	
Approximately 4,650 feet downstream of Meadow View Drive Bridge	*472
Approximately 2,700 feet upstream of Meadow View Drive Bridge	*485
Approximately 400 feet downstream of Rancho Road Bridge	*504
Approximately 3,400 feet downstream of Forest Hills Drive	*515
Approximately 1,280 feet upstream of Forest Hills Drive	*531
Salt Creek:	
At confluence with Churn Creek	*614
Just downstream of Oasis Road	*630
Approximately 275 feet upstream of Crooked Lane	*647
Boulder Creek:	
At confluence with Churn Creek	*567
Approximately 2,125 feet downstream of Interstate Highway 5	*597
Just upstream of Interstate Highway 5	*605
At State Route 273	*628
At Southern Pacific Railroad	*666
Oregon Gulch:	
Approximately 800 feet downstream of Shasta General Hospital	*460
Approximately 100 feet upstream of Westside Road	*487

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
At Cedar Street	*494
Approximately 2,030 feet upstream of Cedar Street	*510
Approximately 3,625 feet upstream of Cedar Street	*539
Canyon Hollow Creek:	
At confluence with Sacramento River	*463
At Anderson Cottonwood Irrigation District Canal	*469
Approximately 25 feet downstream of Market Street (northbound)	*487
Approximately 50 feet downstream of Canyon Creek Road (upstream crossing)	*510
Approximately 4,385 feet upstream of Canyon Creek Road (upstream crossing)	*563
Buckeye Creek:	
Approximately 2,650 feet downstream of Oasis Road	*639
Approximately 825 feet downstream of Oasis Road	*650
At Oasis Road	*658
Maps are available for review at City Hall, 760 Park View Avenue, Redding, California.	
COLORADO	
Dolores (town), Montezuma County (FEMA Docket No. 6932)	
Dolores River:	
Approximately 2,100 feet downstream of downstream edge of 4th Street Bridge	*6,924
Approximately 95 feet upstream of 8th Street extended	*6,943
Approximately 1,650 feet upstream of 12th Street extended	*6,961
Approximately 50 feet upstream of 20th Street extended	*6,966
At the intersection of Central Avenue and 9th Street	#2
Maps are available for review at Town Hall, 420 Central Avenue, Dolores, Colorado.	
Morgan County (unincorporated areas) (FEMA Docket No. 6946)	
Beaver Creek:	
Between eastbound and westbound lanes of Interstate Highway 76	*4,229
At Old DLD Road	*4,239
Approximately 9,800 feet upstream of confluence with Upper Platte River and Beaver Canal	*4,258
Maps are available for inspection at the Morgan County Planning and Zoning Department, 218 West Kiowa, Fort Morgan, Colorado.	
Pueblo County (unincorporated areas) (FEMA Docket No. 6946)	
St. Charles River:	
Approximately 3,100 feet downstream of Ford Road	*4,572
At 27th Lane	*4,681
Approximately 20 feet upstream of Denver and Rio Grande Western Railroad	*4,868
Approximately 20 feet downstream of Interstate Highway 25	*4,985
Approximately 1,600 feet upstream of confluence with Stinking Arroyo	*5,088
Salt Creek:	
At confluence with Arkansas River	*4,647
At U.S. Highway 277	*4,647
Approximately 100 feet downstream of U.S. Highway 50	*4,654
Approximately 50 feet upstream of Burlington Northern Railroad	*4,850
Approximately 100 feet downstream of St. Charles Reservoir No. 3 Outlet	*4,960
Approximately 5,500 feet upstream of old railroad grade	*5,110
Sixmile Creek:	
Approximately 900 feet downstream of U.S. Highway 50	*4,525
Approximately 110 feet downstream of Grant Road	*4,570
Approximately 10 feet upstream of 42nd Lane	*4,591
Approximately 10 feet upstream of Olson Road	*4,627
Approximately 1,675 feet upstream of 40th Lane	*4,683
Wild-Horse Dry Creek:	
At Lowell Avenue	*4,764
Approximately 200 feet downstream of U.S. Highway 50	*4,776
Approximately 200 feet downstream of confluence with Dry Creek	*4,810
Approximately 7,600 feet upstream of confluence with Dry Creek	*4,887
Good Night Arroyo:	
At old railroad grade	*4,722
Approximately 200 feet upstream of Aqua Drive	*4,750
Approximately 4,500 feet upstream of Red Creek Road	*4,874
Dry Creek:	
Approximately 1,050 feet downstream of Booth Canal	*4,621
At Atchison, Topeka and Santa Fe Railway	*4,640
Approximately 20 feet downstream of City of Pueblo corporate limits	*4,734
Maps are available for review at the Pueblo County Department of Planning and Development, 1120 Court Street, Pueblo, Colorado.	
Routt County (unincorporated areas) (FEMA Docket No. 6938)	
Yampa River:	
Approximately 4,240 feet downstream of the Denver and Rio Grande Western Railroad	*6,573
At the confluence with Slate Creek	*6,623
Just upstream of Stock Drive	*6,676
Approximately 1,890 feet upstream of Stock Drive	*6,686
Approximately 3,800 feet downstream of Tree Haus Road	*6,738
Approximately 150 feet upstream of Routt County Road 14F	*6,777
At Routt County Road 22	*6,806
Approximately 1,115 feet downstream of Colorado State Highway 131	*6,836
Approximately 7,460 feet upstream of Colorado State Highway 131	*6,861
Elk River:	
Approximately 370 feet downstream of Routt County Road 58	*7,162
Just downstream of Routt County Road 62	*7,220
Approximately 500 feet downstream of Colorado State Highway 129	*7,271
Maps are available for review at the Office of the County Engineer, Routt County, 136 6th Street, Steamboat Springs, Colorado 80477.	
NEVADA	
Clark County (unincorporated areas) (FEMA Docket No. 6946)	
Muddy River:	
At Fish and Game Diversion Structure	*1,240
At Cooper Avenue	*1,280
Approximately 150 feet upstream of Gubler Avenue	*1,358
Approximately 8,000 feet upstream of State Highway 169	*1,422
At confluence with Weiser Wash	*1,492
At Interstate Highway 15	*1,521
Approximately 3,100 feet upstream of confluence with California Wash	*1,556
Area west of intersection between Rice Street and Gubler Road	#1
At intersection of State Highway 169 and Navajo Road	#1
Approximately 6,000 feet north and 1,400 feet west of the intersection of Cooper Avenue and Virginia Street	#1
Overton Wash:	
Approximately 350 feet downstream of Main Street	#2
Approximately 4,000 feet upstream of Union Pacific Railroad (UPRR)	*1,311
Approximately 12,300 feet upstream of UPRR	*1,437
Approximately 1,500 feet east of Main Street	#1
Approximately 500 feet east of Main Street	#2
West Branch Muddy River:	
Approximately 1,100 feet downstream of Cooper Avenue	*1,259
Approximately 2,450 feet upstream of Cooper Avenue	*1,272
Approximately 200 feet downstream of Cottonwood Avenue	*1,299
Dripping Springs Canyon (Alluvial Fan):	
Approximately 3,000 feet west of intersection between State Highway 163 (SH163) and Needles Highway, along SH163	#1
Approximately 4,300 feet west of intersection between SH163 and Needles Highway along SH163	#2
Approximately 5,300 feet west of intersection between SH163 and Needles Highway along SH163	#3
Bridge Canyon (Alluvial Fan):	
At intersection between Edison Road and Needles Highway	#1
Approximately 4,300 feet south of intersection of State Highway 163 and Needles Highway	#1
Approximately 6,500 feet west of Needles Highway	#1
Hiko Springs Canyon (Alluvial Fan):	
Approximately 9,000 feet due south of intersection of Needles Highway and Edison Road	#2
Approximately 2,000 feet due west of intersection of Edison Road and Needles Highway	#3
Approximately 3,100 feet north of intersection of Edison Road and Needles Highway	#4
Approximately 6,000 feet west of Needles Highway	#4
Southwest Unnamed Canyon (Alluvial Fan):	
Approximately 11,000 feet south of intersection between Needles Highway and Edison Road, along Needles Highway	#1
COALESCENT ALLUVIAL FAN AREAS	
Dripping Springs Canyon or Bridge Canyon (Alluvial Fan):	
At intersection of Edison Road and Casino Road	#1
Maps are available for review at the office of the Director of Public Works, Clark County Bridger Building, 225 Bridger Avenue, Las Vegas, Nevada.	

Harold T. Duryee,

Administrator, Federal Insurance Administration.

Issued: June 6, 1989.

[FR Doc. 89-12732 Filed 6-13-89; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 87-182; RM-5543 & RM-6096]

Radio Broadcasting Services; Bear Lake and Grayling, Michigan

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes FM Channel 262C2 for Channel 261A at Grayling, Michigan, and modifies the license for Station WQON to specify the new channel in response to a counterproposal filed by Ditmer Broadcasting Company, Inc. The coordinates for Channel 262C2 are 44–28–36 and 84–47–30. The notice in this proceeding was issued in response to a petition filed by Andrew L. Banas requesting substitution of Channel 262C2 for 261A at Bear Lake, Michigan, and modification of its construction permit for Station WRQT to specify the higher class channel.

After comparative evaluation of the communities to determine which could provide a new service to the largest population within the gain areas of the predicted C2 service contours, the Commission concluded that the Grayling proposal should prevail. With this action, this proceeding is terminated.

EFFECTIVE DATE: July 20, 1989.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 87–182, adopted May 15, 1989, and released June 5, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. In § 73.202(b), the Table of FM Allotments is amended, under Michigan by removing Channel 261A and adding Channel 262C2 at Grayling.

Federal Communications Commission.

Karl Kensinger,

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

[FR Doc. 89–14055 Filed 6–13–89; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

RIN 2127–AB91

[Docket No. 87–08; Notice 3]

Federal Motor Vehicle Safety Standards; Occupant Crash Protection

AGENCY: National Highway Traffic Safety Administration (NHTSA) DOT.

ACTION: Final rule.

SUMMARY: This rule establishes a new requirement for lap/shoulder safety belts to be installed at all forward-facing rear outboard seating positions in passenger cars. Rear-seat lap/shoulder belts are estimated to be even more effective than rear-seat lap-only belts in reducing fatalities and moderate-to-severe injuries. As safety belt use in the rear seat increases, the greater effectiveness of rear-seat lap/shoulder belts should yield progressively larger benefits in terms of reduced fatalities and moderate-to-severe injuries. NHTSA anticipates that this rule requiring rear-seat lap/shoulder belts will help increase safety belt use in the rear seats, by providing rear seat occupants with maximum safety protection when they buckle up.

DATES: This final rule takes effect on December 11, 1989. All passenger cars, other than convertibles, manufactured on or after that date must be equipped with rear-seat lap/shoulder belts that comply with this rule.

Any petitions for reconsideration of this rule must be received by NHTSA no later than July 14, 1989.

ADDRESS: Any petitions for reconsideration should refer to Docket No. 87–08; Notice 3 and be submitted to: Administrator, NHTSA, 400 Seventh Street, SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Dr. Richard Strombotne, Chief, Crashworthiness Division, NRM–12, Room 5320, NHTSA, 400 Seventh Street, SW., Washington, DC 20590 (202–366–2264).

SUPPLEMENTARY INFORMATION: Standard No. 208, *Occupant Crash Protection* (49 CFR 571.208) currently requires vehicle manufacturers to install a seat belt assembly that conforms to Standard No. 209, *Seat Belt Assemblies*, at every rear designated seating position in passenger cars, trucks, and multipurpose passenger vehicles. Manufacturers are permitted to choose between installing a Type 1 (lap-only) or Type 2 (lap/shoulder) safety belt system. Until recently, most manufacturers chose to comply with this requirement by installing lap-only safety belts at rear designated seating positions.

When the agency gave manufacturers the option of installing either a lap-only or lap/shoulder belt at each rear designated seating position, the available evidence showed that both types of belt systems were effective in reducing the risk of death and serious injury in a crash. A number of studies since that time have evaluated thousands of cases and repeatedly concluded that lap-only belts are, in fact, substantially effective in preventing deaths and reducing injuries. While there are individual cases where lap-only belts may have failed to prevent injury, NHTSA knows of no comprehensive study by any person or organization that concludes that rear seat lap belts are anything less than effective in reducing overall crash risks for those occupants. The agency again strongly encourages rear seat occupants to use whatever type of safety belt is available, whether lap-only or lap/shoulder, just as front seat occupants should always buckle up.

Even so, NHTSA believes that lap/shoulder belts would be even more effective than lap-only belts in rear seating positions. In past years, however, rear seat occupants infrequently used their safety belts, which were almost always the lap-only type, with usage rates far lower than for front-seat occupants. For example, approximately 2 percent of rear seat occupants wore their safety belts in 1981–82. With that very low rate of belt use, the safety benefits (in terms of reduced deaths and injuries) of lap/shoulder belts vs. lap-only belts at those rear seating positions would have been negligible, but would have imposed substantially greater costs. In 1984, NHTSA estimated the cost differential to be an additional $20 per rear seating position equipped with lap/shoulder belts. After considering these facts, and the far greater need for improved front seat occupant protection, the agency decided that it could not then justify a requirement for lap/shoulder belts at rear seating positions.

In August 1986, a petition was filed with the agency by the Los Angeles Area Child Passenger Safety Association. This petition asked NHTSA to require the installation of lap/shoulder belts in rear seating positions. The agency decided to grant this petition and reexamine the issue. Accordingly, on June 16, 1987, NHTSA published an advance notice of proposed rulemaking (ANPRM),

requesting comments on the need for rulemaking to require lap/shoulder belts in rear seating positions (52 FR 22818). Thirty-four commenters responded to the ANPRM.

After considering these comments, NHTSA concluded that several factors had changed since the previous considerations of this subject. Among the changed factors were the following:

1. *Safety Belt Use in Rear Seating Positions Had Increased Substantially.* Safety belt use in rear seats had increased eightfold from the two percent use rate in 1981–82 to 16 percent use in 1987. The primary factors responsible for the dramatic increase in safety belt use were State safety belt use laws. As of April 1989, these laws were in place in 32 States and the District of Columbia. As the number of States with safety belt use laws continues to grow, along with expanded belt-use campaigns and greater public awareness of the benefits of wearing safety belts, there is every reason to believe that the rate of belt use by rear-seat occupants will continue to increase as well.

2. *The Greater Effectiveness of Rear Seat Lap/Shoulder Belts Had Become a Significant Factor with the Increase in the Use of Rear Seat Belts.* NHTSA estimates that rear-seat lap-only belts are 32 percent effective in reducing the risk of death, while rear seat lap/shoulder belts would be 41 percent effective in reducing the risk of death. As more rear-seat occupants use their safety belts, the nine percentage point greater effectiveness for lap/shoulder belts will result in progressively greater safety benefits.

3. *As Manufacturers Voluntarily Chose to Equip Their Vehicles with Rear Seat Lap/Shoulder Belts, the Costs Associated with a Requirement for Rear Seat Lap/Shoulder Belts were Proportionally Diminished.* When the agency examined this issue on previous occasions, the vast majority of vehicles were equipped with lap-only safety belts at rear seating positions. The costs of adding lap/shoulder safety belts to the rear seating positions of nearly every new vehicle were substantial. In preparing the ANPRM on this subject, NHTSA assumed that rear outboard seat lap/shoulder belts would not otherwise be installed in passenger cars unless required by regulation, and estimated the total costs for equipping the new-car fleet to be approximately $140 million annually.

However, vehicle manufacturers have voluntarily chosen to equip more and more of their vehicles with rear-seat lap/shoulder belts. For example, nearly every 1990 model year passenger car would have been voluntarily equipped with rear outboard seat lap/shoulder belts. The incremental costs associated with a NHTSA requirement would reflect only the costs of installing rear-seat lap/shoulder belts in the small portion of the fleet that would not have those belts voluntarily installed, or approximately $790,000, a substantial decrease from the agency's previous estimates of such costs.

After analyzing the effects of these changed factors and the comments received on the ANPRM, NHTSA tentatively determined that a requirement for lap/shoulder belts in rear seating positions would now be justified. Accordingly, NHTSA published a notice of proposed rulemaking (NPRM) on November 29, 1988 (53 FR 47982). This NPRM was a comprehensive proposal. It proposed to require that all passenger cars, other than convertibles, manufactured on or after September 1, 1989, be equipped with lap/shoulder safety belts at all forward-facing rear outboard seating positions. It proposed further that convertible passenger cars and trucks, multipurpose passenger vehicles, and buses with a gross vehicle weight rating of 10,000 pounds or less manufactured on or after September 1, 1991, be equipped with lap/shoulder safety belts at all forward-facing rear outboard seating positions. The NPRM also proposed that rear-seat lap/shoulder belts be equipped with a particular type of retractor, that such belts be integral (i.e., the lap belt could not be detachable from the shoulder belt), that rear-seat lap/shoulder belts comply with some of the comfort and convenience requirements specified in section S7.4 of Standard No. 208, and that the anchorages for the rear-seat lap/shoulder belt assemblies comply with the requirements of Standard No. 210, *Seat Belt Assembly Anchorages* (49 CFR § 571.210).

The comment period for the NPRM closed on January 30, 1989. More than 70 comments were received on the NPRM. The commenters generally agreed with the proposal to require lap/shoulder belts at forward-facing rear outboard seating positions, at least in passenger cars other than convertibles. However, the commenters raised a number of concerns with and objections to specific details of the NPRM, including the vehicle types other than passenger cars that should be required to be equipped with rear-seat lap/shoulder belts, the retractors with which those lap/shoulder belts should be equipped, compatibility with child restraint systems, the definition of an "outboard seat," the details of the comfort and convenience requirements, and the requirements for tension-relieving devices on these belts.

NHTSA will need some additional time to properly analyze and evaluate each of these comments on the detailed aspects of the proposal, and to formulate the agency response and appropriate regulatory requirements for each of these aspects. If the agency were to take no final rulemaking action while it is preparing its position on each of these issues, the effect would be to delay the issuance and effective date of the basic requirement to install rear-seat lap/shoulder belts in all vehicles including passenger cars. Yet it is this basic requirement that will offer the public most of the safety benefits that were contemplated by the agency when it published the NPRM. While NHTSA believes that additional incremental safety benefits will result from requirements adopting detailed installation requirements, such as those proposed in the NPRM, it would appear unwise and inappropriate for the agency to deny the public the benefits of a basic requirement for rear-seat lap/shoulder belts until the agency can complete its work on those installation requirements.

To ensure the earliest possible implementation of a requirement for rear-seat lap/shoulder belts, NHTSA has decided to take final action on its proposal in two steps. The first step consists of this rule, which addresses only passenger cars other than convertibles with a general requirement for lap/shoulder belts at rear outboard seating positions. The second step will consist of NHTSA's decision regarding each of the detailed proposals for rear-seat lap/shoulder belts set forth in the NPRM. NHTSA will also treat the second step of this rulemaking as a high priority action, to ensure that the incremental benefits are available in a timely fashion.

With the exception of Ford Motor Company (Ford) and Subaru, the commenters were essentially unanimous in their support for the agency's proposal to require rear-seat lap/shoulder belts in all 1990 and subsequent model year passenger cars other than convertibles.

Ford commented that it had planned to voluntarily provide rear-seat lap/shoulder belts in most of its cars by September 1, 1989, regardless of any regulatory requirements. However, Ford stated that it had not planned to provide rear-seat lap/shoulder belts in one of its car lines by that date, because production of the current design of that line will be phased out during the 1990 model year. Accordingly, Ford commented that "a 1989 effective date

might well compel Ford to stop production of that line," but that Ford could meet the proposed passenger car requirements for all its cars manufactured on or after September 1, 1990. NHTSA contacted Ford to obtain more detailed information about these assertions.

Ford explained that its asserted problem arose from the proposed requirement that rear-seat lap/shoulder belts be integral. However, Ford did plan to offer retrofit shoulder belt kits for the rear seats of the single line which it was not planning to equip with rear-seat lap/shoulder belts for the 1990 model year. These retrofit kits would consist of separate manually adjustable shoulder belt and buckle assemblies to supplement the lap-only belts already installed in the vehicle. The installation of these retrofit kits involves no change to the existing lap belts. Instead, the upper ends of the shoulder belts are attached to the upper anchorages required by Standard No. 210 to be in the car at all forward-facing rear outboard seating positions. The lower ends of the shoulder belts are attached to the inboard anchorages for the existing lap belts, by loosening the bolt anchoring the lap belt, inserting the attachment hardware for both the lap belt and the shoulder belt on that bolt, and then retightening and properly torquing the bolt. After the retrofit, the installed safety belt system consists of a lap belt with its own buckle and retractor, and a shoulder belt with its own buckle and manual adjusting device. Such a design would not comply with the proposed requirement that the lap/shoulder belts be integral.

Ford asserted that it could not comply with a requirement for *integral* lap and shoulder belts for the rear outboard seating positions of this single line. According to Ford, it would not be acceptable simply to use an integral lap/shoulder belt assembly and attach the upper end of the shoulder belt assembly to the anchorages installed in the car in compliance with Standard No. 210. While such a system would comply with the applicable and proposed NHTSA regulatory requirements, Ford indicated that such a safety belt system would not necessarily be optimized for kinematic performance, belt comfort, restraint system integrity, and the like. Because of these concerns, Ford indicated that it was moving the anchorages for rear outboard seats in most of its car lines to optimally accommodate factory-installed integral lap/shoulder belts.

Ford also indicated that it was simply not possible for it to complete the necessary testing and design modifications and incorporate those changes into production for the current design of the line in question within the period proposed in the NPRM (i.e., by September 1, 1989) Ford asserted that it would need at least 42 weeks of leadtime to begin production of cars in this line with integral lap/shoulder belts in the rear. Additionally, Ford stated that the successor vehicle for this line would have integral lap/shoulder belts at the rear outboard seating positions. Thus, instead of making the investment in design, testing, and production changes for a car line that will not be produced after April 1990, Ford indicated that it might stop production of that line eight months earlier than is now planned.

When NHTSA issued the NPRM, the agency believed that Ford would voluntarily install rear-seat lap/shoulder belts on all of its 1990 car lines. Since that is not the case, and since Ford faces special difficulties in bringing one of its car lines into compliance, the agency's must revise its tentative conclusion that a September 1, 1989 effective date was practicable for a requirement for *integral* rear-seat lap/shoulder belts. This final rule reflects a balancing of the need to ensure that any new requirements in the safety standards are "practicable" (as required by the Safety Act) with the public safety benefits from the earliest practicable effective date for these requirements. The agency is therefore adopting a schedule of effective dates that addresses both these needs, as described below.

Subaru's objection to the proposed requirement was based on the fact that one of its models (the Loyale station wagon) is already voluntarily equipped with rear-seat lap/shoulder belts, but the anchorage for the upper end of the shoulder belt is outside the anchorage location zones specified in Standard No 210. Some background information on this situation may be helpful.

Subaru previously sought an interpretation from NHTSA as to whether the company would be permitted to use an anchorage location outside of the zones specified in Standard No. 210 for the upper anchorage of voluntarily-installed rear-seat lap/shoulder belts. In an October 13, 1988 interpretation letter to Mr. Paul Utans of Subaru, NHTSA responded that components voluntarily installed in addition to required safety systems are not themselves required to comply with the safety standards, provided that the additional components do not diminish the ability of the required systems to comply with the safety standards. In this case, the shoulder belts were voluntarily installed by Subaru, so the shoulder-belt portions of the lap/shoulder belt systems were not required to comply with the anchorage location requirements in Standard No. 210 or any other of the requirements in the safety standards. Instead, the only limitation on the voluntarily installed shoulder-belts was that they could not diminish the ability of the required lap belts to comply with the safety standards. This letter concluded by noting that this interpretation would no longer apply if NHTSA adopted a final rule requiring rear-seat lap/shoulder belts in passenger cars, because the interpretation was based upon the voluntary nature of the shoulder-belt installation.

Because of this interpretation, Subaru correctly assumed in its comments that the upper anchorages for the rear-seat lap/shoulder belts in its Loyale station wagons would have to comply with all requirements of Standard No. 210, including the location requirements, if the proposed rule were adopted as a final rule and became effective. This would obligate Subaru to redesign the rear-seat lap/shoulder belt system in its Loyale station wagon, conduct testing of the redesign, and incorporate the redesign into production. In comments similar to those of Ford, Subaru asserted that the proposed leadtime until September 1989 was too short, but that vehicles manufactured after September 1990 could comply with the proposed requirements.

When NHTSA proposed that this rule become effective nine months after the NPRM was published, the agency recognized that this amount of leadtime was substantially less than is frequently proposed for other significant rulemakings. This foreshortened leadtime reflected NHTSA s belief that manufacturers would not need to make engineering or design changes to install lap/shoulder belts in the rear outboard seating positions of passenger cars other than convertibles, especially in view of the substantial commitments for voluntary installation of such belts. *See* the discussion under the heading, *9. Proposed Timing for Applying These Requirements to Vehicle Types*, in the preamble to the NPRM (53 FR 47991). The Ford and Subaru comments show instances where the agency's tentative conclusions about the sufficiency of the leadtime were inaccurate, because those manufacturers would need to make engineering and design changes to comply with the proposed requirements.

After reviewing the comments, NHTSA does not believe that a final rule would be "practicable" if it were

effective in September 1989 and adopted all of the NPRM's proposed requirements for integral rear-seat lap/shoulder belts using anchorages that comply with Standard No. 210. However, a final rule adopting a general requirement for rear-seat lap/shoulder belts effective six months after publication of this final rule would be practicable, if the requirements did not require integral belts or complying anchorages. This general requirement would ensure all cars had lap/shoulder belts installed as original equipment in the rear-seat. Some production changes might still be needed, since Ford had not planned to install the shoulder belt retrofit kits as original equipment in the single line discussed above. However, these production changes would be practicable 180 days after publication of this rule.

Accordingly, NHTSA has decided to adopt a general requirement that passenger cars other than convertibles be equipped with rear-seat lap/shoulder belts, beginning 180 days after this rule is published. This general requirement specifically excludes these rear-seat safety belts from the existing requirements that lap/shoulder belts be integral and that anchorages comply with all requirements of Standard No. 210. These exclusions will expire August 31, 1990. Hence, all passenger cars other than convertibles manufactured on or after September 1, 1990, must have *integral* rear-seat lap/shoulder belts and use shoulder belt anchorages that comply with all requirements of Standard No. 210.

As noted above, the second step of the agency's final action in this rulemaking will address all of the detailed proposals set forth in the NPRM for all the vehicle types. The issue of the retractor type that should be required for passenger car rear-seat lap/shoulder belts, and its compatibility with child restraint systems, will be addressed during that second step, not in this rule. This rule leaves the existing provisions of S7.1.1 of Standard No. 208 in place. Those provisions require that the lap belt adjust by means of *either* an automatic locking retractor (ALR) or an emergency locking retractor (ELR), and the shoulder belt adjust by means of *either* an ELR or a manual adjusting device. That second rule will also address vehicles other than passenger cars, as well as the definition of an "outboard seat," details of the comfort and convenience requirements, special requirements for tension-relieving devices on these belts, and the other issues raised in comments on the NPRM.

Economic and Other Impacts of This Rule

NHTSA has analyzed this rule and determined that it is not "major" within the meaning of Executive Order 12291, but that it is "significant" within the meaning of the Department of Transportation regulatory policies and procedures, because of the public interest in this rule. Because the rule is "significant," NHTSA has prepared a Final Regulatory Evaluation (FRE), and a copy of the FRE has been placed in the docket for this rulemaking action. A copy of the FRE may be obtained by writing to: Docket Section, NHTSA, Room 5109, 400 Seventh Street, SW., Washington, DC 20590.

Additionally, the agency has analyzed the effects of this rule on small entities, in accordance with the Regulatory Flexibility Act. Based on this analysis, I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities. Few, if any, of the vehicle manufacturers qualify as small entities. To the extent that any vehicle manufacturers qualify as small entities, their number would not be substantial. The requirements will not affect the manufacturing process of any safety belt manufacturers that are small entities, nor will it significantly affect the retail price of vehicles purchased by any small organizations or small governmental units.

The agency has also analyzed this rule under the National Environmental Policy Act and determined that it will not have a significant effect on the human environment.

This rule has also been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and NHTSA has determined that the rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles.

In consideration of the foregoing, 49 CFR Part 571 is amended as follows:

PART 571—[AMENDED]

1. The authority citation for Part 571 continues to read as follows:

Authority: 15 U.S.C. 1392, 1401, 1403, 1407; delegation of authority at 49 CFR 1.50.

§ 571.208 [Amended]

2. S4.1.4 of Standard No. 208 is revised to read as follows:

* * * * *

S4.1.4 *Passenger cars manufactured on or after September 1, 1989.*

S4.1.4.1 Except as provided in S4.1.5 and S4.1.4.2, each passenger car manufactured on or after September 1, 1989 shall comply with the requirements of S4.1.2.1. Until September 1, 1993, each car whose driver's designated seating position complies with the requirements of S4.1.2.1(a) by means not including any type of seat belt and whose right front designated seating position is equipped with a manual Type 2 seat belt that meets the requirements of S5.1, with the Type 2 seat belt assembly adjusted in accordance with S7.4.2, shall be counted as a vehicle complying with S4.1.2.1. A vehicle shall not be deemed to be in noncompliance with this standard if its manufacturer establishes that it did not have reason to know in the exercise of due care that such vehicle is not in conformity with the requirement of this standard.

S4.1.4.2 (a) Each passenger car, other than a convertible, manufactured on or after December 11, 1989, and before September 1, 1990, shall be equipped with a Type 2 seat belt assembly at every forward-facing rear outboard designated seating position. Type 2 seat belt assemblies installed in compliance with this requirement shall comply with Standard No. 209 (49 CFR 571.209) and with S7.1.1 of this standard.

(b) Each passenger car, other than a convertible, manufactured on or after September 1, 1990, shall be equipped with an integral Type 2 seat belt assembly at every forward-facing rear outboard designated seating position. Type 2 seat belt assemblies installed in compliance with this requirement shall comply with Standard No. 209 (49 CFR 571.209) and with S7.1.1 and S7.2 of this standard.

* * * * *

§ 571.210 [Amended]

3. The introductory text of S4.3 of Standard No. 210 is revised to read as follows:

* * * * *

S4.3 *Location.* As used in this section, "forward" means the direction in which the seat faces, and other directional references are to be interpreted accordingly. Anchorages for automatic seat belt assemblies and for dynamically tested seat belt assemblies that meet the frontal crash protection requirements of S5.1 of Standard No. 208 (49 CFR 571.208) are exempt from the location requirements of this section. Anchorages are exempt from the requirements of S4.3.2 of this standard, if those anchorages are for the upper torso portion of a Type 2 seat belt

assembly installed at a forward facing rear outboard seating position of a passenger car, other than a convertible, that is manufactured on or after December 11, 1989 and before September 1, 1990.

* * * * *

Issued on June 9, 1989.

Jeffrey R. Miller,

Deputy Administrator.

[FR Doc. 89-14083 Filed 6-12-89; 10:00 am]

BILLING CODE 4910-59-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611 and 675

[Docket No. 90369-9069]

Foreign Fishing, Groundfish of the Bering Sea and Aleutian Islands Area

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

ACTION: Emergency interim rule, extension of effective date.

SUMMARY: An emergency interim rule that closes certain areas of the Bering Sea to fishing with trawl gear is in effect until June 13, 1989. The Secretary of Commerce (Secretary) extends this emergency interim rule for an additional 90 days, through September 11, 1989. This action is necessary to maintain protection of the identified prohibited species, especially red king crab, from interaction with trawl gear. The intended effect is to assure the conservation of prohibited species until more permanent controls on bycatch are implemented.

EFFECTIVE DATES: June 13, 1989 until September 11, 1989.

ADDRESS: A copy of the environmental assessment (EA) supporting this action may be requested from Steven Pennoyer, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 21668, Juneau, AK 99802-1668.

FOR FURTHER INFORMATION CONTACT: Jay J.C. Ginter (Fishery Management Biologist, NMFS), 907-586-7229.

SUPPLEMENTARY INFORMATION: The Secretary promulgated an emergency interim rule under section 305(e)(1) of the Magnuson Fishery Conservation and Management Act (Magnuson Act) to prevent excessive bycatches of Pacific halibut, and *C. bairdi* Tanner and red king crabs in the Bering Sea groundfish fisheries (54 FR 11376, March 20, 1989; corrected at 54 FR 12989, March 29, 1989). This rule was effective for 90 days, from March 15, 1989 until June 13, 1989. The Secretary finds that conditions justifying the emergency action remain unchanged. At its meeting of April 12-14, 1989, the North Pacific Fishery Management Council (Council) reviewed the conditions warranting, and the effect of, the emergency interim rule and recommended that it should be extended for an additional period of time. Therefore, the Secretary is extending the effectiveness of the emergency interim rule by this repromulgation for an additional 90 days under section 305(e)(3)(B) of the Magnuson Act. Further background and descriptive information is contained in the preamble of the original promulgation of this emergency interim rule.

Comments Received

Comments on the EA supporting the original promulgation of the emergency interim rule were invited until April 14, 1989. One letter of comment was received during the comment period. It is summarized and responded to below. Numerous other letters were received before and after the comment period concerning bycatch management in the Bering Sea subarea. Letters in opposition to such management by the emergency interim rule focused on the issues raised in the comment summarized below. Other letters favored emergency action but requested implementation of the Council's specified bycatch limits. The Secretary decided against such action as it would imply approval of the recommended limits in Amendment 12a to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea/Aleutian Islands (Amendment 12a) prior to the statutory review period. Instead, the Secretary took the recommended limits under advisement and protected the area most critical to crab and halibut with a prohibition on trawling. For interim management purposes, this approach balances prevention of excessive bycatch of crab and halibut with the domestic harvest of allowable amounts of groundfish.

Comment: There is no bycatch-related emergency. There is no indication that current levels of crab or halibut bycatch in the groundfish fishery threaten biological harm to those resources or economic harm to commercial crab and halibut fisheries. The commercial king crab fishery actually has a high bycatch rate of immature males and females that must be discarded, and the Tanner crab fishery also may have a red king crab bycatch of millions of animals.

The need for the trawl fishery closure between 160° and 162° W. longitude south of 58° N. latitude should be re-examined in light of the shift of the red king crab population to the west. There is no justification for closing the entire area between 162° and 163° W. longitude south of 58° N. latitude, since the northern half of this corridor has few female red king crabs. There is no justification for closing any part of the 162°-163° W. longitude corridor to midwater trawling since those operations have insignificant rates of crab bycatch, and such closures force midwater trawl operations into other areas such as the Gulf of Alaska. The period of any closure of the 162°-163° W. longitude corridor should be limited to the "soft shell" period for red king crab.

The imposition of bycatch limits only on the trawl fishery is unfair and discriminatory. A reasonable bycatch control regime must take into account the contribution of every fishery to the bycatch "problem." The crab bycatch limits are clearly inadequate and unfair to trawlers. Imposition of these limits would violate several national standards against which all Magnuson Act measures must be judged.

For the above reasons, the emergency interim rule should be modified to: (a) Allow midwater trawling throughout the 162°-163° W. longitude corridor, (b) allow bottom trawling in the northern half of the 162°-163° W. longitude corridor, and (c) allow trawlers with scientific observers on board to fish in the area between 160° and 162° W. longitude to collect data and evaluate the necessity of maintaining this as a closed area. No area closures or gear restrictions should be made in addition to those already imposed and any effort to protect crab stocks from trawl bycatch should evaluate the groundfish catches that are foregone by such action.

Response: No modification to the original promulgation of the emergency interim rule was made for the following reasons. An emergency did exist in the first quarter of 1989 and continues to exist. The purpose of this emergency interim rule is to prevent excessive bycatches of prohibited species while allowing the groundfish fisheries adequate opportunity to harvest the total allowable catch. The Secretary has determined that excessive bycatches of prohibited species would occur unless the emergency interim rule is in effect. NOAA is aware of the bycatch of immature male and female red king crabs in the commercial fishery for red king crabs and the bycatch of red king crabs in the Tanner crab fishery. These crab fisheries are managed by the State of Alaska Department of Fish and Game (ADF&G), which closed the Tanner crab

fishery in the Bering Sea on May 7, 1989, partly because of excessive red king crab bycatches (ADF&G emergency order No. 4–S–09–89). Other reasons included the imminent molting period, during which time bycatch mortality increases, and a lower than expected catch per unit effort. Further, a complete closure of the red king crab fishery is possible due to the current severe low abundance of this species, although this decision will not be made by the ADF&G until after the 1989 crab survey is complete. Hence, NOAA does not perceive an unfair bycatch regulatory burden being imposed on trawlers.

NOAA agrees that recent data on the distribution of red king crabs indicate a shift to the west. This is the principal reason why the Secretary closed the area between 162° and 163° W. longitude south of 58° N. latitude, in addition to the "traditional" closed area between 160° and 162° W. longitude south of 58° N. latitude. Currently, NOAA is re-examining the efficacy of redrawing the closed area boundaries. Based on the most recent crab survey data (distribution and abundance data collected during June and July 1988), about 26.5 percent of the total red king crab population in the eastern Bering Sea occurred between 160° and 162° W. longitude south of 58° N. latitude and north of the Alaska Peninsula. Although this proportion of the population is less than it has been in recent years, it is nevertheless significant. Based on the same data, the adjacent area, between 162°–163° W. longitude, contains about 48.4 percent of the total red king crab population in the eastern Bering Sea. Together, these two areas, which are closed (with certain exceptions) to trawling under the emergency interim rule, contain about 75 percent of the red king crab population.

NOAA agrees also that there are relatively few mature female red king crabs in the northern half (between 56°30' and 58° N. latitude) of the 162°–163° W. longitude corridor. Crab survey data indicate that within this corridor, the red king crab population seems most abundant between 55°30' and 56°30' N. latitude which contains about 41.2 percent of the total population in the eastern Bering Sea. However, a significant proportion of the mature male crabs, about 15.4 percent of the total mature male red king crab population, occurs in the northern half of the 162°–163° W. longitude corridor. The entire corridor contains about 27 percent of the mature male population which is comparable to the 31 percent contained in the 160°–162° W. longitude area that is nearly twice the size of the corridor area. These mature male animals are the most valuable to the commercial red king crab fishery and would most immediately impact that fishery if the mature males were unprotected from interaction with trawl gear. For this reason, the Secretary is continuing the closure of the 162°–163° corridor and not limiting it to the mating and molting ("soft shell") period as recommended by the Council.

As its name implies, midwater or off-bottom trawl gear usually does not operate in contact with the sea bottom where crabs live. Therefore, such trawl gear often has substantially lower bycatch rates than bottom trawl gear. This appears especially true when midwater gear is used during the first 4 months of the year to harvest pollock in spawning aggregations. However, midwater trawl gear can be rigged at other times to catch fish very close to the sea bottom, for example, pollock in more dispersed feeding schools during the summer. The bycatch rates of midwater gear operated close to the bottom may be significantly greater than when the gear is operated higher in the water column. As such, there is no way for NOAA to verify whether any particular midwater trawl is being operated at a depth that will minimize its bycatch. Bycatch data from an on-board observer could indicate that at certain times a midwater trawl probably was fishing very close to the bottom relative to other times, but this would involve "after-the-fact" reconstruction of fishing behavior. Hence, regardless of the presence of observers, NOAA has no way of being certain that midwater trawl gear will not also catch crabs and halibut. Therefore, the Secretary is not modifying the constraint on using midwater trawl gear in the closed area. Although closed areas force fishing activities to relocate to other areas, NOAA is convinced that closure of the area will not prevent or significantly impede attainment of the allowable harvest of groundfish.

The emergency interim rule does not impose the Council's recommended overall bycatch limits on the trawl fishing industry. The preamble to the original promulgation of the emergency interim rule states (at 54 FR 11379) only that the bycatch limits recommended by the Council at its January 1989 meeting would guide the Secretary in deciding whether additional regulatory controls on bycatch are warranted. This does not necessarily imply automatic closure of other areas when the recommended bycatch limits are attained. A final decision by the Secretary on whether to approve and implement the Council's recommended bycatch limits in Amendment 12a must be made by July 7, 1989.

List of Subjects

50 CFR Part 611

Fisheries, Foreign fishing.

50 CFR Part 675

Fisheries, Reporting and recordkeeping requirements.

Dated: June 9, 1989.

James E. Douglas, Jr.,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR Part 611 is amended as follows:

PART 611—FOREIGN FISHING

1. The authority citation for Part 611 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*, 16 U.S.C. 971 *et seq.*, 22 U.S.C. 1971 *et seq.*, and 16 U.S.C. 1361 *et seq.*

§ 611.93 [Amended]

2. In § 611.93, the effective date for which paragraph (c)(2)(ii) was amended by temporarily suspending paragraphs (F) and (G) and temporarily adding new paragraphs (H) and (I) should be revised to read June 13, 1989 until September 11, 1989.

PART 675—GROUNDFISH OF THE BERING SEA AND ALEUTIAN ISLANDS AREA

3. The authority citation for Part 675 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

§ 675.7 [Amended]

4. In § 675.7, the effective date for which paragraph (c) is temporarily added, is revised to read June 13, 1989 until September 11, 1989.

§ 675.22 [Amended]

5. The effective date for which § 675.22 is temporarily added should be revised to read June 13, 1989 until September 11, 1989.

[FR Doc. 89–14143 Filed 6–9–89; 8:45 am]
BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 54, No. 113
Wednesday, June 14, 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 AGRICULTURE

Agricultural Marketing Service

7 CFR Part 51

[Docket No. FV-88-205]

Shelled Pistachio Nuts; Grade Standards

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule proposes the establishment of voluntary United States Standards for Grades of Shelled Pistachio Nuts. The California Pistachio Association, an industry group, has requested the U.S. Department of Agriculture to develop these standards. One purpose of the standards would be to provide a common trading language for this product. The Agricultural Marketing Service (AMS), in cooperation with industry, has the responsibility to develop and maintain current U.S. grade standards.

DATE: Comments must be postmarked or courier dated on or before August 14, 1989.

ADDRESS: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent in dublicate to the Standardization Section, Fresh Products Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, P.O. Box 96456, Room 2056 South Building, Washington, DC 20090-6456. Comments should make reference to the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the above office during regular business hours.

FOR FURTHER INFORMATION CONTACT: Thomas G. Gambill, at the above address or call (202) 447-2185.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512-1 and has been designated as "nonmajor."

Pursuant to the requirements set forth in the Regulatory Flexibility Act, the Administrator of AMS has determined that this action will not have a significant economic impact on a substantial number of small entities. The proposed rule for establishment of U.S. Standards for Grades of Shelled Pistachio Nuts will not impose substantial direct economic cost, recordkeeping, or personnel workload changes on small entities, and will not alter the market share or competitive position of these entities relative to large businesses. In addition, the standards are voluntary, so members of the pistachio nut industry need not have their product certified under these standards, thereby incurring no costs at all.

The U.S. pistachio nut industry began in California in the late 1960's and early 1970's with the planting of several thousand acres of pistachio trees. Production began in 1977 and the first true commercial harvest of 17.2 million pounds occurred in 1979. Since that time, U.S. production has increased dramatically. In 1974, Iran, Turkey, and Syria accounted for 96 percent of the world pistachio crop. Eight years later, the U.S. industry harvested 43.4 million pounds, a record 32 percent of world production. The U.S. harvest increased to 63.1 million pounds in 1984 and according to the California Pistachio Commission production is expected to grow to 92 million or more pounds in 1990.

The U.S. industry began working toward a uniform trading language in the form of industry standards as early as 1977. However, these standards were subject to frequent changes, were not used industry wide, and were not recognized internationally. In late 1981, the California Pistachio Association formally asked the U.S. Department of Agriculture (USDA) to develop U.S. Standards for Grades of Pistachio Nuts in the Shell. A Final Rule was published in the **Federal Register** and the United States Standards for Grades of Pistachio Nuts in the Shell [7 CFR 51.2540—51.2546] became effective on August 4, 1986.

In 1988, the California Pistachio Association requested the USDA to develop U.S. Standards for Grades of Shelled Pistachio Nuts based on a proposal developed by their Grades and Standards Committee. According to the association, the demand for pistachio kernels is constantly increasing, both as a whole nutmeat or in a chopped form. At the onset of requesting U.S. standards for pistachio nuts in the shell, the association's intent was to eventually request the development of standards for shelled pistachios.

According to the California Pistachio Commission, 1,721,755 pounds of nutmeats were imported from major countries in the crop year 1986-87. U.S. shipments (those nutmeats grown and harvested in the United States) included 3,881,074 pounds shipped domestically and 628,560 pounds being exported for a total of 4,509,634 pounds. Thus, with an ever increasing volume of nutmeats and with the intent of developing a common trading language within the industry, the California Pistachio Association has requested the following proposed U.S. Standards for Grades of Shelled Pistachio Nuts.

The proposed standard would complement the internal (kernel) requirements of the standard for the in shell pistachios. The proposed standard is worded to the extent applicable with the same type language and provisions, including uniform grade nomenclature as used in other USDA fresh products standards. The standard would apply to kernels which are raw, roasted, or in a salted state. Provisions would include grades, tolerances, application of tolerances, sizes, definitions, qualifying terms and average moisture content. The standard provides for three grades, U.S. Fancy, U.S. No. 1, and U.S. No. 2. In addition to providing tolerances for damage, serious damage, and foreign material in each of the three grades, four different size designations have been created for whole kernels, whole and broken kernels, large pieces, and small pieces.

The following are the proposed voluntary United States Standards for Grades of Shelled Pistachio Nuts.

List of Subjects in 7 CFR Part 51

Fresh fruits, vegetables, and other products (Inspection, certification, and standards).

PART 51—[AMENDED]

For reasons set forth in the preamble, it is proposed that 7 CFR Part 51 be amended as follows:

1. The authority citation for 7 CFR Part 51 continues to read as follows:

Authority: Secs. 203, 205, 60 Stat. 1087, as amended, 1090 as amended [7 U.S.C. 1622, 1624].

2. By adding a new subpart, Subpart—United States Standards for Grades of Shelled Pistachio Nuts, as follows:

This action would provide standards in accordance with the provisions of the Agricultural Marketing Act of 1946 [7 U.S.C. 1621 *et seq.*] so that the agricultural products would be marketed to the best advantage, that trading would be facilitated and the consumers would be able to obtain the quality product they desire.

* * * * *

Subpart—United States Standard for Grades of Shelled Pistachio Nuts

Sec.

51.2555 General.
51.2556 Grades.
51.2557 Tolerances.
51.2558 Application of tolerances.
51.2559 Size.
51.2560 Definitions.
51.2561 Qualifying terms.
51.2562 Average moisture content.

§ 51.2555 General.

(a) Compliance with the provisions of these standards shall not excuse failure to comply with provisions of applicable Federal or State laws.

(b) These standards are applicable to pistachio kernels which may be in a raw, roasted, or salted state; or in any combination thereof. However, nuts of obviously dissimilar forms shall not be commingled.

§ 51.2556 Grades.

(a) "U.S. Fancy," "U.S. No. 1," and "U.S. No. 2" consist of pistachio kernels which meet the following basic requirements:

(1) Well dried, or very well dried when specified in connection with the grade.

(2) Free from:

(i) Foreign material, including in-shell nuts, shells, or shell fragments.

(3) Free from damage by:

(i) Minor mold;

(ii) Immature kernels;

(iii) Spotting; and,

(iv) Other defects.

(4) Free from serious damage by:

(i) Mold;

(ii) Minor insect or vertebrate injury;

(iii) Insect damage;

(iv) Rancidity;

(v) Decay; and,

(vi) Other defects.

§ 51.2557 Tolerances.

(a) In order to allow for variations incident to proper grading and handling, the tolerances, by weight, in Table I are provided.

TABLE I

Factors (tolerances by weight)	Percent		
	U.S. fancy	U.S. No. 1	U.S. No. 2
(a) Damage	2.0	2.5	3.0
(b) Serious Damage	1.5	2.0	2.5
(1) Insect Damage (included in [b])	.3	.4	.5
(c) Foreign Material	.03	.05	.1

§ 51.2558 Application of tolerances.

The tolerances for the grades apply to the entire lot and shall be based on a composite sample representative of the lot. Any container or group of containers which have kernels obviously different in quality or size from those in the majority of containers shall be considered a separate lot and shall be sampled separately.

§ 51.2559 Size.

(a) Kernels may be considered as meeting the size designations as specified, provided they meet the applicable percentage requirements in either paragraph (a) (1), (2), (3), or (4) of this section.

(1) *Whole Kernels:* 80 percent or more by weight shall be whole kernels, and further provided that not more than 5 percent of the total sample shall pass through a $^{15}/_{64}$ inch round opening, including not more than 1 percent of which shall pass through a $^{5}/_{64}$ inch round opening.

(2) *Whole and Broken Kernels:* 40 percent or more by weight shall be whole kernels, and further provided that not more than 15 percent of the total sample shall pass through a $^{15}/_{64}$ inch round opening, including not more than 2 percent of which shall pass through a $^{5}/_{64}$ inch round opening.

(3) *Large Pieces:* Portions of kernels of which not more than 10 percent will remain on a $^{24}/_{64}$ inch round opening and further provided that not more than 20 percent of the total sample shall pass through a $^{15}/_{64}$ inch round opening, including not more than 2 percent of which shall pass through a $^{5}/_{64}$ inch round opening.

(4) *Small Pieces:* Portions of kernels of which not more than 10 percent will remain on a $^{15}/_{64}$ inch round opening and further provided that not more than 3 percent of the total sample shall pass through a $^{5}/_{64}$ inch round opening.

§ 51.2560 Definitions.

(a) "Well dried" means the kernel is firm and crisp.

(b) "Very well dried" means the kernel is firm and crisp and the average moisture content of the lot does not exceed 7 percent or lower levels, if specified (See § 51.2562).

(c) "Foreign material" means leaves, sticks, in-shell, shells or pieces of shells, dirt, or rocks. No allowable tolerances for metal or glass.

(d) "Damage" means any specific defect described in paragraph (d) (1) through (3) of this section or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which materially detracts from the appearance or the edible or marketing quality of the individual kernel or of the lot. (For tolerances, see § 51.2557, Table I).

(1) "Minor white or gray mold" is mold that is not readily noticeable on the kernel and which can be easily rubbed off with the fingers.

(2) "Immature kernels" are excessively thin kernels.

(3) "Kernel spotting" refers to dark brown or dark gray spots aggregating more than one-eighth of the surface of the kernel.

(e) "Whole kernel" means ¾ of a kernel or more.

(f) "Serious damage" means any specific defect described in paragraph (f) (1) through (5) of this section, or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which seriously detracts from the appearance or the edible or marketing quality of the individual kernel or of the lot. (For tolerances see § 51.2557 Table I).

(1) "Mold" which is readily visible on the kernel.

(2) "Minor insect or vertebrate injury" means the kernel shows conspicuous evidence of feeding on the kernel.

(3) "Insect damage" is an insect, insect fragment, web, or frass attached to the kernel. No live insects shall be permitted.

(4) "Rancidity" means the kernel is distinctly rancid to taste. Staleness of flavor shall be classed as rancidity.

(5) "Decay" means any portion of the kernel is decomposed.

§ 51.2561 Qualifying terms.

The following terms may be used individually, or in combination, to qualify the U.S. grade:

(a) "Salted"—the kernels have had salt or a salt substitute added.

(b) "Roasted"—the kernels have been cooked to alter the flavor intentionally.

(c) "Raw"—the kernels have not been cooked.

§ 51.2562 Average moisture content.

(a) Determining average moisture content of the lot is not a requirement of the grades, except when kernels are specified as "very well dried." It may be carried out upon request in connection with grade analysis or as a separate determination.

(b) Kernels shall be obtained from a randomly drawn composite sample. Official certification shall be based on the air-oven method or other officially approved methods or devices. Results obtained by methods or devices not officially approved may be reported and shall include a description of the method or device and owner of any equipment used.

Dated: June 6, 1989.

Kenneth C. Clayton,

Acting Administrator.

[FR Doc. 89-14137 Filed 6-13-89; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Parts 905 and 928

[Docket No. FV-89-049]

Expenses and Assessment Rates for the Marketing Orders Covering Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida, and Papayas Grown in Hawaii

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would authorize expenditures and establish assessment rates under Marketing Orders Nos. 905 and 928 for the 1989–90 fiscal year for each marketing order program. These proposed expenditures and assessment rates are needed by the administrative committees established under these orders to pay program expenses and collect assessments from handlers to pay those expenses. The proposed action would enable these committees to perform their duties and the programs to operate.

DATE: Comments must be received by June 26, 1989.

ADDRESS: Interested persons are invited to submit written comments concerning this rule to: Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2525–S, Washington, DC 20090–6456. Three copies of all written material shall be submitted, and they will be made available for public inspection in the office of the Docket Clerk during regular business hours. All comments should reference the docket number and the date and page number of this issue of the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Gary D. Rasmussen, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2525–S, Washington, DC 20090–6456; telephone: (202) 475–3918.

SUPPLEMENTARY INFORMATION: This proposed rule is issued under Marketing Agreement and Marketing Order Nos. 905 (7 CFR Part 905) regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida; and 928 (7 CFR Part 928) regulating the handling of papayas grown in Hawaii. These agreements and orders are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

This proposed rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512–1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this proposed rule on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 100 handlers of Florida oranges, grapefruit, tangerines, and tangelos, and 122 handlers of Hawaiian papayas subject to regulations under their respective orders, and approximately 13,000 orange, grapefruit, tangerine, and tangelo producers in Florida, and 344 papaya producers in Hawaii. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having average gross annual revenues for the last three years of less than $500,000, and small agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. A minority of the Florida citrus handlers, and the majority of the Hawaiian papaya handlers and Florida citrus and Hawaiian papaya producers may be classified as small entities.

Each marketing order administered by the U. S. Department of Agriculture (Department) requires that the assessment rate for a particular fiscal year shall apply to all assessable commodities handled from the beginning of such year. An annual budget of expenses is prepared by each administrative committee and submitted to the Department for approval. The members of administrative committees are handlers and producers of the regulated commodities. They are familiar with the committees' needs and with the costs for goods, services, and personnel in their local areas and are thus in a position to formulate appropriate budgets. The budgets are formulated and discussed in public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

The assessment rate recommended by each administrative committee is derived by dividing anticipated expenses by the expected shipments of the commodity (e.g., pounds, tons, boxes, cartons, bushels, etc.). Because that rate is applied to actual shipments, it must be established at a rate which will produce sufficient income to pay the committees' expected expenses. Recommended budgets and rates of assessment are usually acted upon by the committees shortly before a season starts, and expenses are incurred on a continuous basis. Therefore, budget and assessment rate approvals must be expedited so that the committees will have funds to pay their expenses.

The Citrus Administrative Committee (CAC) met on April 18, 1989, and unanimously recommended a 1989–90 budget with expenditures of $185,000, compared with $190,000 budgeted for 1988–89. The proposed 1989–90 expenditures are comparable to those for 1988–89, except that CAC travel costs are expected to be substantially lower next year.

The CAC also unanimously recommended a 1989–90 assessment rate of $0.0027 per ⅘ bushel carton, compared with the 1988–89 assessment rate of $0.003. Assessment income for 1989–90 is expected to total $162,000, based on shipments of 60,000,000 cartons of fresh oranges, grapefruit, tangerines, and tangelos. Interest income is estimated at $8,000, while an estimated $15,000 will be drawn from the CAC's reserve.

The Papaya Administrative Committee (PAC) met on April 20, 1989,

and unanimously recommended a 1989–90 budget with expenditures of $814,030, compared with $743,360 budgeted for 1988–89. Most proposed expenditure items for 1989–90 are higher than those for 1988–89, reflecting for the most part inflationary price increases. Major proposed expenditure items in the 1989–90 budget are $400,000 for advertising and promotion, including $200,000 for mainland promotion, $50,000 for Hawaii promotion, $126,280 for Japanese promotion, and $23,280 for contingencies. Research and development expenditures are projected at $60,000. The advertising, promotion, and research projects will be submitted for approval as soon as they are fully evaluated and after the budget has been approved. Most of the remaining expenditure items, totaling $354,030, are for program administration and management activities related to the advertising and promotional effort.

The PAC also unanimously recommended a 1989–90 assessment rate of $0.0085 per pound of shipped fresh papayas, compared with the 1988–89 assessment rate of $0.007 per pound. PAC income for 1989–90 is expected to amount to $904,230, with assessment income estimated at $595,000, based on shipments of 70,000,000 pounds of fresh papayas. Additional estimated income includes promotional grants of $200,000 from the Hawaii Department of Agriculture, and of $63,360 from the USDA's Foreign Agricultural Service. Other income includes $7,000 from the Japan Inspection Program, $15,000 from the Japan Trade Show, $13,470 from the University of Idaho, and $10,400 from miscellaneous sources including interest. Projected 1989–90 income over expenses ($90,200) is intended to increase the PAC's relatively low operating reserve, projected at only $26,874 on July 31, 1989.

While this proposed action would impose some additional costs on handlers, the costs are in the form of uniform assessments on all handlers. Some of the additional costs may be passed on to producers. However, these costs would be significantly offset by the benefits derived from the operation of the marketing orders. Therefore, the Administrator of the AMS has determined that this action would not have a significant economic impact on a substantial number of small entities.

Based on the foregoing, it is found and determined that a comment period of less than 30 days is appropriate because the budgets and assessment rate approvals for these programs need to be expedited. The committees need to have sufficient funds to pay their expenses, which are incurred on a continuous basis.

List of Subjects in 7 CFR Parts 905 and 928

Marketing agreements and orders, oranges, grapefruit, tangerines, tangelos (Florida), papayas (Hawaii).

For the reasons set forth in the preamble, it is proposed that new §§ 905.228 and 928.219 be added as follows:

1. The authority citation for 7 CFR Parts 905 and 928 continues to read as follows:

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

2. New §§ 905.228 and 928.219 are added to read as follows:

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

§ 905.228 Expenses and assessment rate.

Expenses of $185,000 by the Citrus Administrative Committee are authorized, and an assessment rate of $0.0027 per ⅘ bushel carton of assessable fruit is established for the fiscal year ending July 31, 1990.

PART 928—PAPAYAS GROWN IN HAWAII

§ 928.219 Expenses and assessment rate.

Expenses of $814,030 by the Papaya Administrative Committee are authorized, and an assessment rate of $0.0085 per pound of assessable papayas is established for the fiscal year ending June 30, 1990. Unexpended funds may be carried over as a reserve.

Dated: June 9, 1989.

William J. Doyle,

Associate Deputy Director, Fruit and Vegetable Division.

[FR Doc. 89–14109 Filed 6–13–89; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 89-NM-80-AD]

Airworthiness Directives; Boeing of Canada, Ltd., de Havilland Division, Model DHC-8-100 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 de Havilland Model DHC–8–100 series airplanes, which would require modification of the propeller alternate feather system. This proposal is prompted by a report of inadvertent operation of both alternate feather switches in lieu of the standby hydraulic pressure switches. This condition, if not corrected, could lead to unexpected loss of thrust and altitude in a critical flight regime.

DATE: Comments must be received no later than August 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–80–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168. The applicable service information may be obtained from Boeing of Canada, Ltd., de Havilland Division, Garratt Boulevard, Downsview, Ontario M3K IY5, Canada. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the New York Aircraft Certification Office, ANE–174, 181 South Franklin Avenue, Room 202, Valley Stream, New York.

FOR FURTHER INFORMATION CONTACT: Mr. Pat Perrotta, Manager, Propulsion Branch, ANE–174, New York Aircraft Certification Office, Engine and Propeller Directorate, Federal Aviation Administration, New England Region, 181 South Franklin Avenue, Room 202, Valley Stream, New York 11581; telephone (516) 791–7421.

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 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.

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.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped post card on which the following statement is made: "Comments to Docket Number 89–NM–80–AD." The post card will be date/time stamped and returned to the commenter.

Discussion: Transport Canada, in accordance with existing provisions of a bilateral airworthiness agreement, has notified the FAA of an unsafe condition which may exist on certain de Havilland Model DHC–8–100 series airplanes. There has been a report of inadvertent operation of both alternate feather switches in lieu of the adjacent standby hydraulic pressure switches, thereby causing an unwanted feathering of the propellers. This condition, if not corrected, could lead to unexpected loss of thrust and altitude in a critical flight regime.

Boeing of Canada, Ltd., de Havilland Division, has issued Service Bulletin No. 8–61–10, Revision A, dated August 5, 1988, which describes procedures for the addition of condition lever microswitches and their associated wiring to the alternate feather system, which will negate the activation of the alternate feather switches unless the appropriate engine condition lever has been moved to the feather position. Transport Canada has issued Canadian Airworthiness Directive CF–88–13 addressing this subject.

This airplane model is manufactured in Canada 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 this same type design registered in the United States, an AD is proposed which would require modification of the alternate feather system in accordance with the service bulletin previously described.

There are approximately 91 Model DHC–8–100 series airplanes of the affected design in the worldwide fleet. It is estimated that 44 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. The modification kit would be provided by the manufacturer at no cost to operators. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $7,040.

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, I certify that this proposed regulation (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 Rules Docket.

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 Part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

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. Section 39.13 is amended by adding the following new airworthiness directive:

Boeing of Canada, Ltd., De Havilland Division: Applies to Model DHC–8–100 series airplanes, Serial Numbers 1 through 91, certificated in any category. Compliance is required within the next 400 hours time-in-service after the effective date of this AD, unless previously accomplished.

To prevent unwanted propeller feathering due to inadvertent activation of the alternate feather switches, accomplish the following:

A. Modify the alternate feather system in accordance with the Accomplishment Instructions of Boeing of Canada, Ltd., de Havilland Division, Service Bulletin No. 8–61–10, Revision A, dated August 5, 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, New York Aircraft Certification Office, FAA, New England Region, Engine and Propeller Directorate.

Note: 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, New York 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 of Canada, Ltd., de Havilland Division, Garratt Boulevard, Downsview, Ontario M3K IY5, Canada. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or at the New York Aircraft Certification Office, Engine and Propeller Directorate, FAA, New England Region, 181 South Franklin Avenue, Room 202, Valley Stream, New York.

Issued in Seattle, Washington, on June 2, 1989.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89–14086 Filed 6–13–89; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 89–NM–48–AD]

Airworthiness Directives; Boeing Model 747 Series Airplanes Equipped With General Electric CF6–45 or CF6–50 Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes a new airworthiness directive (AD), applicable to certain Boeing Model 747 series airplanes equipped with General Electric CF6–45 or CF6–50 engines, which would require repetitive visual inspections of the thrust control cables near the idler pulleys for wear and strand separation, and cable replacement until incorporation of a pressure attenuator to the engine driven hydraulic pump. This proposal is prompted by reports of throttle control cable strand separation and wear due to chafing. This condition, if not corrected,

could lead to total cable rupture, resulting in uncommanded engine thrust.

DATE: Comments must be received no later than August 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-48-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, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Sulmo Mariano, Propulsion Branch, ANM-140S; telephone (206) 431-1972. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

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 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.

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.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped post card on which the following statement is made: "Comments to Docket Number 89-NM-48-AD." The post card will be date/time stamped and returned to the commenter.

Discussion: There have been reports of throttle control cable strand separation and wear, due to chafing, on certain Boeing Model 747 airplanes. Investigation has revealed that the primary reason for control cable chafing is vibrations transmitted through the structure from the engine-driven hydraulic pump on airplanes equipped with General Electric CF6-45 and -50 engines. The incorporation of a hydraulic attenuator on the engine driven hydraulic pump will reduce pressure pulsations, thus reducing the wear on the control cables. Failure of an engine control cable could result in loss of control of the engine thrust.

The FAA has reviewed and approved Boeing Alert Service Bulletin 747-76A2071, Revision 1, dated January 26, 1989, which describes procedures for repetitive visual inspections of the thrust control cables near the idler pulleys for strand separation and wear, and cable replacement, if needed. The service bulletin also describes terminating action for the inspections, consisting of installations of a pressure attenuator and attaching hardware to the engine driven hydraulic pump.

Since this condition is likely to exist or develop on other airplanes of this same type design, an AD is proposed which would require repetitive visual inspections of the engine control cables for strand separation and wear, and cable replacement, if necessary, in accordance with the service bulletin previously described. Installation of a pressure attenuator and attaching hardware to the engine driven hydraulic pump would be required within one year after the effective date of this AD, and would terminate the requirements for the repetitive inspections.

There are approximately 132 Model 747 series airplanes of the affected design in the worldwide fleet. It is estimated that 6 airplanes of U.S. registry would be affected by this AD, that it would take approximately 14 manhours to accomplish the required actions, and the average labor cost will be $40 per manhour. Cost of parts is estimated at $3,870 per airplane. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $26,580.

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, I certify that this proposed regulation (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 Rules Docket.

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 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. Section 39.13 is amended by adding the following new airworthiness directive:

Boeing: Applies to Model 747 series airplanes, equipped with General Electric CF6-45 and CF6-50 engines, listed in Boeing Alert Service Bulletin 747-76A2071, Revision 1, dated January 26, 1989, certificated in any category. Compliance required as indicated, unless previously accomplished.

To eliminate the potential for uncommanded thrust operation due to engine control cable rupture, accomplish the following:

A. Within the next 60 days or 450 flight hours after the effective date of this AD, whichever occurs first, visually inspect the thrust control cables near the idler pulley for wear and strand separation, in accordance with the accomplishment instructions of Boeing Alert Service Bulletin 747-76A2071, Revision 1, dated January 26, 1989. If wear or strand separation is identified, replace the cable prior to further flight, in accordance with the service bulletin. Repeat the inspection at intervals not to exceed 600 flight-hours.

B. Within one year after the effective date of this AD, install a pressure attenuator and attaching hardware to the engine-driven hydraulic pump in accordance with the accomplishment instructions of Service

Bulletin 747–76A2071, Revision 1, dated January 26, 1989. This installation constitutes terminating action for the repetitive inspections 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, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

Note: 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, Seattle 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 Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

Issued in Seattle, Washington, on June 2, 1989.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89–14087 Filed 6–13–89; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 89–NM–82–AD]

Airworthiness Directives; Fokker Model F–27 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 certain Fokker Model F–27 series airplanes, which currently requires a revision to the Limitations Section of the Airplane Flight Manual (AFM) restricting the maximum turbulent air penetration airspeed for certain airplanes, and installation of a placard to this effect near each airspeed indicator. That action was prompted by a report of improper heat treatment of the wing structure, resulting in a reduction of the strength of the skin splice at Wing Station 7900. This condition, if not corrected, could lead to reduced structural capability of the wing. This action would require a one-time inspection of the splice parts at Wing Station 7915, and repair if necessary. This proposal is prompted by the development of a repair procedure to reinforce unsatisfactory splice parts at Wing Station 7915.

DATES: Comments must be received no later than August 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–82–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168. The applicable service information may be obtained from Fokker Aircraft USA, Inc., 1199 N. Fairfax Street, Alexandria, Virginia 22314. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: 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: 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.

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.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped post card on which the following statement is made: "Comments to Docket Number 89–NM–82–AD." The post card will be date/time stamped and returned to the commenter.

Discussion: On January 18, 1989, the FAA issued AD 88–17–02 R1, Amendment 39–6127 (54 FR 4769; January 31, 1989), applicable to Fokker Model F–27 series airplanes, to require a revision to the Limitations Section of the Airplane Flight Manual (AFM) restricting the maximum turbulent air penetration airspeed for certain airplanes, and installation of a placard to this effect near each airspeed indicator. That action was prompted by a report of improper heat treatment of the wing structure, resulting in a reduction of the strength of the skin splice at Wing Station 7900. This condition, if not corrected, could lead to reduced structural capability of the wing.

Since issuance of that AD, Fokker has developed inspection and repair procedures, which, when accomplished, eliminates the need for the current airspeed restriction.

Fokker has issued Service Bulletin F27/57–63, Revision 1, dated January 25, 1989, which describes procedures for a one-time inspection of the outerwing skin splices at Wing Station 7915, and repair, if necessary. The Rijksluchtvaartdienst (RLD), which is the airworthiness authority of the Netherlands, has classified this service bulletin as mandatory, and has issued Netherlands Airworthiness Directive BLA No. 88–55, Issue 3, dated September 7, 1988, addressing this subject.

This airplane model is manufactured in the Netherlands 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, an AD is proposed which would revise AD 88–17–02 R1, Amendment 39–6127, to require a one-time inspection of the outer wing skin splices at Wing Station 7915, and repair if necessary, in accordance with the service bulletin previously described. This action would also terminate the requirement for the airspeed restrictions.

It is estimated that 13 airplanes of U.S. registry would be affected by this AD, that it would take approximately 10 manhours per airplane to accomplish the inspection, and that the average labor cost would be $40 per manhour. The

required parts will be provided by the manufacturer at no cost to the operator. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $5,200.

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, I certify that this proposed regulation (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 Rules Docket.

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 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. Section 39.13 is amended by amending Amendment 39-6127 (54 FR 4769; January 31, 1989), AD 88-17-02 R1, as follows:

Fokker: Applies to Model F-27 series airplanes, serial numbers 10346 to 10684, inclusive; and serial numbers 10105 to 10345, inclusive, if retrofitted with outerwing serial number 246 or higher; certificated in any category. Compliance is required as indicated, unless previously accomplished.

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

A. Within 24 hours after February 15, 1989 (the effective date of Amendment 39-6127), incorporate the following into the Limitations Section of the Airplane Flight Manual (AFM). This may be accomplished by inserting a copy of this AD into the AFM.

"For airplanes operating at weights over 32,000 lbs.: Speed Limitation V_B: 165 KIAS (168 KTS CAS)"

B. Within 24 hours after February 15, 1989 (the effective date of (Amendment 39-6127), install a placard near each airspeed indicator, stating the following:

FOR AIRPLANES OPERATING AT WEIGHTS OVER 32,000 LBS.: SPEED LIMITATION V_B: 165 KIAS (168 KTS CAS)

C. Within six months after the effective date of this amendment, perform a one-time inspection of the splice parts at Wing Station 7915, in accordance with the Accomplishment Instructions, Part 1, of Fokker Service Bulletin F27/57-63, Revision 1, dated January 25, 1989.

1. If no defective splice parts are found, and if the structural strength of the wing splice is determined to be satisfactory in accordance with the limits specified in the service bulletin, no further action is required. The airspeed restriction required by paragraphs A. and B., above, is no longer required, and the AFM limitation and placard may be removed.

2. If defective splice parts are found or if the structural strength of the wing splice is determined to be unsatisfactory in accordance with the limits specified in the service bulletin, within one year after the effective date of this amendment reinforce all unsatisfactory splice parts at Wing Station 7915 in accordance with the Accomplishment Instructions, Part 2, of Fokker Service Bulletin F27/57-63, Revision 1, dated January 25, 1989. Following this modification and a determination that the wing splice strength is satisfactory, the airspeed restriction required by paragraphs A. and B., above, is no longer required, and the AFM limitation and placard may be removed.

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.

Note: 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, 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 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 Fokker Aircraft USA, Inc., 1199 N. Fairfax Street, Alexandria, Virginia 22314. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

Issued in Seattle, Washington, on June 2, 1989.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89-14088 Filed 6-13-89; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 88-NM-191-AD]

Airworthiness Directives; SAAB-Scania AB Model SF-340A 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 SAAB-Scania AB Model SF-340A series airplanes, which would require installation of a modified engine electrical control unit (ECU). This proposal is prompted by two reports of engine failure during takeoff and the subsequent failure of the autocoarsen system to coarsen the propeller on the failed engine due to torque spikes from the ECU. This condition, if not corrected, could lead to high propeller drag on the failed engine side of the airplane and loss of climb performance.

DATES: Comments must be received no later than August 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. 88-NM-191-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from SAAB—Scania, Aircraft Division, S.58188, Linkoping, Sweden. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: 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: 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.

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.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped post card on which the following statement is made: "Comments to Docket Number 88–NM–191–AD." The post card will be date/time stamped and returned to the commenter.

Discussion: The Luftfartsverket (LFV), which is the airworthiness authority of Sweden, in accordance with existing provisions of a bilateral airworthiness agreement, has notified the FAA of an unsafe condition which may exist on certain SAAB-Scania Model SF–340A series airplanes. There have been two reports of engine failure during takeoff, and the subsequent failure of the autocoarsen system to coarsen the propeller on the failed engine. The failure of the autocoarsen system has been attributed to spurious signals (torque spikes) being introduced from the engine electrical control unit (ECU) when the power lever is retarded below 64 degrees. This condition, if not corrected, could lead to high propeller drag on the failed engine side of the airplane and loss of climb performance.

General Electric (GE) Aircraft Engines has issued Service Bulletin 74–16, dated March 22, 1989, which describes procedures for installation of a modified engine ECU which eliminates the torque spikes.

This airplane model is manufactured in Sweden 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 airplanes of this model registered in the United States, an AD is proposed that would require the installation of a modified ECU, in accordance with the service bulletin previously described.

It is estimated that 79 airplanes of U.S. registry would be affected by this AD, that it would take approximately 2.5 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. The parts will be furnished by the manufacturer at no cost. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $7,900.

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, I certify that this proposed regulation (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 Rules Docket.

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 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. Section 39.13 is amended by adding the following new airworthiness directive:

Saab-Scania: Applies to Model SF–340A series airplanes, Serial Numbers SF340A–004 through –159, certificated in any category. Compliance is required within 60 days after the effective date of this AD, unless previously accomplished.

To prevent high propeller drag and loss of climb performance during single engine operation (i.e., one engine failed) while operating with the autocoarsen system on, accomplish the following:

A. Install modified electrical control units (ECU), in accordance with General Electric Service Bulletin 74–16, dated March 22, 1989.

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 will either concur or comment, 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 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 SAAB-Scania, Aircraft Division, S.58188, Linkoping, Sweden. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 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 June 2, 1989.

Darrell M. Pederson,

Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89–14089 Filed 6–13–89; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 88–NM–167–AD]

Airworthiness Directives; British Aerospace Model BAe/DH/BH/HS 125 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Supplemental notice of proposed rulemaking (NPRM); reopening of comment period.

SUMMARY: This notice proposes to amend an earlier proposed airworthiness directive (AD), applicable to certain British Aerospace BAe/DH/BH/HS 125 series airplanes, which would have required inspection of the

elevator mass balance side plate assembly and spigot for corrosion, and repair, if necessary. This proposal would amend the proposal by clarifying the accomplishment procedures to ensure proper modification of the elevator balance weight structure.

DATES: Comments must be received no later than July 12, 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. 88–NM–167–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168. The applicable service information may be obtained from British Aerospace, PLC, Service Bulletin Librarian, P.O. Box 17414, Dulles International Airport, Washington, DC 20041. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 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: 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.

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.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped post card on which the following statement is made: "Comments to Docket Number 88–NM–167–AD." The post card will be date/time stamped and returned to the commenter.

Discussion: A proposal to amend Part 39 of the Federal Aviation Regulations, which would have required inspection of the elevator mass balance side plate assembly and spigot on certain British Aerospace BAe/DH/BH/HS series airplanes for corrosion, and repair, if necessary, was published as a Notice of Proposed Rulemaking (NPRM) in the **Federal Register** on December 8, 1988 (53 FR 49555).

That NPRM was prompted by reports of corrosion on the elevator mass balance side plate assembly and the balance weight spigot. This condition, if not corrected, could lead to displacement of the side plate which could cause control surface interference and jamming of flight controls.

Two comments were received in response to the proposal. Both commenters agreed with the initial inspection, but objected to the repetitive inspections at intervals not to exceed 3 years. Both commenters indicated that the maintenance manual requires follow-on repeat inspections for corrosion every 2,400 hours/48 months, and removal of the sideplate anchor nuts only if there is evidence of corrosion.

The FAA concurs in part with these comments, and has determined that clarification is necessary regarding the purpose of the referenced BAe Service Bulletin 27–142, Revision 2, dated June 10, 1987. One purpose of the service bulletin is to provide instructions for inspection of the elevator mass balance weight side plate assembly and balance weight spigot for corrosion. The service bulletin also describes procedures to apply corrosion protection treatment and to install corrosion resistant Monel Rivets, Part Number MS9318–052, or British Standard Specification SP88–304 rivets in the elevator balance weight structure.

In consideration of the comments received and the above discussion, and since the unsafe condition which initially prompted this rulemaking action is likely to exist or develop on airplanes of this model registered in the United States, the FAA is revising the proposal to require a one-time inspection for corrosion, and repair, if necessary; installation of corrosion protection treatment; and installation of corrosion resistant Monel Rivets specified in the service bulletin. The one-time inspection for corrosion and repair, if necessary, is incidental to, and will be accomplished when, the balance weight structure is disassembled for installation of the corrosion protection treatment and Monel Rivets. The FAA has determined that after the above actions are taken, normal corrosion prevention procedures, as outlined in the maintenance manual, are sufficient.

To provide interested persons an opportunity to comment on the changes to this proposal, the period for public comment has been reopened for an additional 30 days.

It is estimated that 420 airplanes of U.S. registry would be affected by this AD, that it would take approximately 10 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 this AD to U.S. operators is estimated to be $168,000.

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, I certify that this proposed regulation (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 Rules Docket.

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 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. Section 39.13 is amended by revising the Notice of Proposed Rulemaking, Docket 88–NM–167–AD, published in the Federal Register on December 8, 1988 (53 FR 49555), FR Doc. 88–28221, as follows:

British Aerospace (BAe), PLC: Applies to Model BAe/DH/BH/HS 125 series airplanes, certificated in any category. Compliance is required as indicated, unless previously accomplished.

To prevent control surface interference and jamming of the flight controls, accomplish the following:

A. Within 3 years since date of airplane manufacture or within 60 days after the effective date of this AD, whichever occurs later, accomplish the following:

1. Inspect the elevator mass balance weight side plate assembly and balance weight spigot for corrosion in accordance with BAe Service Bulletin 27–142, Revision 2, dated June 10, 1987. Any corrosion detected as a result of this inspection must be repaired prior to further flight, in accordance with the service bulletin.

2. Apply corrosion protection treatment and install Monel Rivets, Part Number MS9318–052, or British Standard Specification SP 88–304 rivets in the elevator balance weight structure, in accordance with BAe Service Bulletin 27–142, Revision 2, dated June 10, 1987.

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 will either concur or comment 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 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 British Aerospace, PLC, Service Bulletin Librarian, P.O. Box 17414, Dulles International Airport, Washington, DC 20041. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 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 June 2, 1989.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89–14090 Filed 6–13–89; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF JUSTICE

28 CFR Part 74

[Order No. 1352–89]

Redress Provision For Persons of Japanese Ancestry

AGENCY: Department of Justice.

ACTION: Notice of proposed rulemaking.

SUMMARY: This rule establishes standards and procedures for enforcement of section 105 of the Civil Liberties Act of 1988, which authorizes the Attorney General to identify, locate, and when appropriated, make payments of $20,000 to eligible individuals of Japanese ancestry who were evacuated, relocated or interned during World War II.

DATE: Comments must be received by July 14, 1989.

ADDRESS: Comments should be sent to Valerie O'Brian, Office of Redress Administration, Civil Rights Division, U.S. Department of Justice, 10th and Constitution Avenue NW., Washington, DC 20530

Comments received will be available for public inspection at the Office of Redress Administration facility at 1000 Connecticut Avenue NW., Washington, DC in Suite 325 from 9:30 a.m. to 5:30 p.m., Monday through Friday except legal holidays. Copies of this notice will be available on tape for those with impaired vision. They may be obtained at the above address.

FOR FURTHER INFORMATION CONTACT: Valerie O'Brian, Office of Redress Administration, Civil Rights Division, U.S. Department of Justice, Washington, DC 20530; (202) 633–5119 (Voice) or (202) 786–5986 (TDD). These are not toll free numbers.

SUPPLEMENTARY INFORMATION: The Civil Liberties Act of 1988 (Pub. L. 100–383, 50 U.S.C. App. 1989b), enacts into law the recommendations of the Commission on Wartime Relocation and Internment of Civilians established by Congress in 1980 (Pub. L. 96–317). This bipartisan Commission was established to review the facts and circumstances surrounding Executive Order Numbered 9066, issued February 19, 1942, and the impact of such Executive Order on American citizens and permanent resident aliens of Japanese ancestry; to review directives of United States military forces requiring the relocation, and in some cases, detention in internment camps of these American citizens and permanent resident aliens, and to recommend appropriate remedies. The Commission submitted to Congress in February 1983 a unanimous report, *Personal Justice Denied*, which extensively reviewed the history and circumstances of the decisions to exclude, remove and then to detain Japanese Americans and Japanese resident aliens from the West Coast, as well as the treatment of the Aleuts during World War II. The final part of the Commission's report, *Personal Justice Denied Part 2: Recommendations*, concluded that these events were influenced by racial prejudice, war hysteria, and a failure of political leadership, and recommended remedial action to be taken by the Congress and the President.

On August 10, 1988, President Ronald Reagan signed the Civil Liberties Act of 1988 into law. The purposes of the Act are to acknowledge and apologize for the fundamental injustice of the evacuation, relocation, and internment of Japanese Americans and permanent resident aliens of Japanese ancestry, to make restitution, and to fund a public education program to prevent the recurrence of any similar event in the future.

Section 105 of the Act, 50 U.S.C. App. 1989b–4, assigned the Attorney General the responsibilities and duties for the restitution provisions. The Attorney General delegated the responsibilities and duties assigned him by the Act to the Assistant Attorney General for Civil Rights, who, in turn, established the Office of Redress Administration in the Civil Rights Division to carry out the execution of the responsibilities and duties under the Act.

The Office of Redress Administration (ORA) is charged with the responsibilities of identifying and locating persons eligible under the Act, without requiring any application for payment, within twelve months after the date of enactment of the Act (August 10, 1988), or within twelve months after the appropriation of funds necessary to complete the identification process. To date no appropriations have been made. It was estimated by the Commission on Wartime Relocation and Internment of Civilians that approximately 120,000 American citizens and permanent resident aliens of Japanese ancestry were affected by the exclusion. Of these, an estimated 60,000 individuals survive and are eligible for redress payment.

In its efforts to identify and locate these individuals, the Office of Redress Administration has initiated a highly publicized outreach program to the Japanese American communities to encourage those persons thought to be eligible to notify the Office with information concerning their eligibility and current residence. On September 19,

1988, the Office of Redress Administration announced the establishment of a toll free telephone number and a U.S. Post Office Box specifically for individuals wishing to ask questions or volunteer information concerning their eligibility. This announcement also was publicized in Japanese American newspapers. The Office has also placed its West Coast staff in San Francisco in order to facilitate its outreach efforts. In addition, the Office has endeavored to establish close working relationships with the leaders of Japanese American organizations, as well as religious groups and senior citizens associations in Japanese American communities to ensure communicating information to all eligible persons.

Section 105 of the Act also requires that the Attorney General must notify each eligible individual in writing as to a determination of eligibility, and authorize the payment of $20,000, to each eligible individual. The Act states that payment will be made to eligible persons in the order of the date of birth. Therefore, the oldest individual on the date of the enactment of this Act, or, if applicable, that individual's survivors, will receive payments first, until all eligible persons have received payment in full. For this purpose, the Act specifies that a total of $1,250,000,000 is to be placed in the United States Civil Liberties Public Education Fund from which payments may be made, and no more than $500,000,000 may be appropriated in any one year. Therefore, not all payments can be made at one time.

This proposed regulation in five subparts implements section 105 of the Act. Subpart A states the Purpose of the regulation and defines key terms; Subpart B lists the categories of individuals determined to be eligible or ineligible in accordance with the statute; Subpart C establishes a procedure through which the Office of Redress Administration will identify and locate all eligible individuals; Subpart D establishes the procedures for payment; and Subpart E establishes an appeals process whereby an individual who is not determined to be eligible by the Redress Administrator may petition for a reconsideration of the finding.

The purpose of this preamble is to highlight the following key issues raised by this proposed rule and spcifically encourage public comment on them.

I. Standards of Eligibility

During the period of drafting the proposed regulations, many individuals and organizations in the Japanese American community contacted the Civil Rights Division to ask questions and express concern regarding the determination of eligibility. In response to these concerns the Division published a Notice in the **Federal Register**, 53 FR 41252 (October 20, 1988), inviting the public to submit comments during the proposed regulation's drafting period on three issues that seemed to be of major concern to the public. These issues pertained to the eligibility of minors who were relocated to Japan between December 7, 1941 and September 2, 1945, persons of Japanese ancestry sent to the United States from other American republics during World War II as a result of international agreements, and voluntary evacuees who did not file "Change of Residence" cards.

In response to this Notice, the Office of Redress Administration received one hundred forty-eight comments regarding these and other issues of eligibility, all of which have been placed for public inspection in the public reading room of the ORA office. Some respondents were United States citizens of Japanese ancestry who were relocated to Japan without consent as minors during the war. These individuals expressed the belief that their constitutional rights had been violated at the time, and to exclude them now from compensation would brand them as disloyal Japanese Amreicans. Most other comments concerned the plight of individuals of Japanese ancestry who were brought to the United States from other American countries. Letters from those so interned, and others who were not, generally supported compensation to these persons. Comments regarding voluntary evacuees who did not file "Change of Residence" cards, provided further evidence that verification of these individuals will need to be done on a case by case basis in order to determine if such persons evacuated as a result of government action. Finally, the Office of Redress Administration received letters from Japanese American World War II veterans whose families had been evacuated. These soldiers were unable to return to unauthorized zones, and furthermore, were often prohibited from visiting their families in relocation centers. These veterans voiced the concern that the Act might not include them as eligible. All the comments received during the drafting period have been placed for public inspection in the public docket record of this proposed regulation.

In drafting the implementation regulations, the Division read and considered each comment. The decisions that the Office of Redress Administration made in response to these comments were not made on the basis of the number of commentators addressing any one point but on a thorough consideration of the merits of the points of view expressed in the comments.

The first issue of eligibility is concerned with the threshold requirement that an eligible person must be an individual of "Japanese ancestry." Records of the evacuation period indicate that there were approximately 80 non-Japanese who were interned with their Japanese American spouses or children. (It is estimated that perhaps 40 such persons are still living.) The Government required these persons to sign a waiver of their rights as non-excluded individuals in order to accompany spouses or children to assembly centers and relocation camps. These wives, husbands and parents executed WPC Form PM-7, "Request and Waiver of Non-Excluded Person," which requested leave to accompany a member of his or her family through all the stages of evacuation and internment as if they were persons of Japanese ancestry. In reality these non-Japanese spouses and parents were confronted by a horrifying choice. They could either "elect" to accompany their spouses or children throughout the removal and internment process, or chose to be separated from them. In the event that there was no Japanese parent or adult relative to accompany the child the Government policy was to take the part-Japanese child and place him or her in an institution and later transfer the child to the Children's Center under the supervision of the War Relocation Authority at Manzanar, California. Obviously, every human instinct would compel these parents to "elect" evacuation.

Unfortunately, however, the Civil Liberties Act of 1988 limits an "eligible individual" in Section 108(2) specifically to "any individual of Japanese ancestry." Indeed, the focus throughout the Act is on those of Japanese ancestry and the discrimination they suffered based on their race. In light of the specificity with which Congress has spoken and its focus on the racial discrimination suffered, it must be concluded that the statute authorizes that compensation may be paid only to those of Japanese ancestry, and not to those who are of non-Japanese ancestry but who were nevertheless interned.

While the phrase "of Japanese ancestry" in the Civil Liberties Act of 1988 cannot be interpreted in the regulation to include non-Japanese family members for purposes of compensation, it is undeniable that these individuals suffered the very

injury that the Civil Liberties Act of 1988 is designed to redress and compensate, and that they should be compensated. Therefore, the Department will submit legislation to the Congress to amend the Civil Liberties Act of 1988 to render eligible those non-Japanese family members who suffered the effects of the government's internment policy by accompanying their spouses or children of Japanese ancestry through the evacuation and internment process.

Other questions regarding internment pertain to the "place" of confinement. It is clear from the findings by the Commission on Wartime Relocation or internment of the Japanese Americans and Japanese resient aliens was not a single uniform action. Indeed, in section 108(2)(B)(i) Congress specifically included language to ensure that the Act covered individuals confined, held in custody, relocated, or otherwise deprived of liberty or property as a result of any action taken by the United States or its agents solely on the basis of Japanese ancestry during the period from December 7, 1941 to June 30, 1946. Therefore, in addition to persons deprived of liberty or property solely on the basis of Japanese ancestry in relocation centers under the supervision of the Wartime Relocation Authority, or in camps under the authority of the Department of Justice or the U.S. Army, others who were similarly deprived of liberty would also be eligible. This category would include institutionalized persons who were unable to evacuate from the prohibited areas and were placed in the custody of the Wartime Relocation Authority.

In addition, some individuals who were members of the U.S. Armed Forces on or before mandatory evacuation on March 31, 1942, and not discharged from duty by that date, and whose domiciles were in excluded areas, would be determined to be eligible under section 108(2)(B)(i) as persons "otherwise deprived of liberty or property" as a result of the acts enumerated in subsections (I), (II), and (III). The Western Defense Command Public Proclamation No., 11 dated August 18, 1942, excluded all Japanese citizens and aliens from Military Area No. 1 and the California portion of Military Area No. 2 without first securing written permission of the Western Defense Command. As a result, there were some soldiers who were unable to re-enter unauthorized zones and safeguard their property. Such persons, as well as those whose property was confiscated by the government, were "deprived of property" as a result of the exclusion policy.

This issue was raised in the Attorney General Adjudication for the Japanese American Evacuation Act of 1948. In *Hirotoshi Oda*, 1 Adjudications of the Attorney General 361 (No. 146–35–16597, November 5, 1954), it was held that persons of Japanese ancestry who were members of the Armed Forces and sustained property losses as a result of the exclusion policy were as much entitled to compensation under the Act as if they had been evacuated to assembly centers and relocation centers with the other members of their families. Therefore, in light of the statutory language of the Act and the given purpose of the Act, such persons are deemed eligible for redress.

Furthermore, some Japanese American soldiers were "deprived of liberty" by virtue of the fact that regulations prohibited them from entering relocation centers to visit their family members or forced Japanese American soldiers to submit to undue restrictions amounting to a deprivation of liberty prior to visiting their families. (This group could also include a small percentage of members of the United States Armed Forces of Japanese ancestry from Hawaii whose families were interned.)

Another major issue of eligibility concerns those persons who were not interned but who evacuated their places of residence during the evacuation, relocation and internment period. The central question in determining eligibility in all these cases is the same: whether the individuals concenred evacuated their places of residence "as a result of" one or other of the statutorily specified types of governmental action, see Section 108(2)(B). Thus, if the individuals in question were ordered by the military to evacuate an area, their evaucation was clearly a result of a governmental action. Similarly, if they evacuated in order to avoid internment, their evacuation resulted from governmental action. In contrast, if they evacuated voluntarily, not in response to any governmental order, it would seem that they are not eligible.

First, there are those individuals who evacuated as a result of specific governmental or military directives. President Roosevelt's Executive Order 9066, empowering the Secretary of War and the Military Commanders whom he might designate to prescribe military areas from which "any and all persons may be excluded" was issued on February 19, 1942. However, even as early as December 7, 1941, agents of the government were taking custody of enemy aliens, including Japanese. On January 29, 1942, the Department of Justice announced the first of a series of zones prohibited to enemy aliens on the West Coast, ordering such persons not to enter or remain in such areas after February 24, 1942. On February 10, 1942, the Department of Justice warned all Japanese aliens (of a total Japanese and Japanese American population of about 3,500) to evacuate Terminal Island, near Los Angeles: that evacuation took place, under orders of the Navy, around February 25, 1942. Apart from these early evacuations preceding Executive Order 9066, there was at least one later case of evacuations undertaken in response to a specific military directive. On May 24, 1942, after the issuance of Executive Order 9066, but before evacuation from Miliatry Area No. 1 was required by orders of the West Coast Military Commander, persons of Japanese ancestry were ordered to evacuate Bainbridge Island, near Seattle.

The statute reaches all these events. Even assuming that none of these evacuations "resulted from" Executive Order 9066, section 108(2)(B)(i)(III) declares evacuees eligible if their relocation resulted from any "directive of the Armed Forces of the United States, or other action taken by or on behalf of the United States or its agents, representatives, officers, or employees." Thus, actions of the Department of Justice, the FBI, the Army, the Navy, or any other federal entity, to exclude, relocate or intern persons of Japanese descent, whether taken pursuant to Executive Order 9066 or not, create eligibility for these groups of evacuees.

Another group of persons involuntarily evacuated who are also determined in the proposed regulation to be eligible, consists of those who left their places of residence on the West Coast between March 2, 1942, the issuance of Public Proclamation No. 1, and March 29, 1942, the date on which the Public Proclamation No. 4 took effect whereby persons of Japanese ancestry were prohibited from removing from parts of the West Coast area in preparation for later forced relocation. Section 108(2)(B)(ii) of the Act defines as eligible one who "was enrolled on the records of the United States Government during the period beginning on December 7, 1941, and ending on June 30, 1946, as being in a prohibited zone." The Conference Report explains this language as a reference to some 4,889 Japanese Americans who left the West Coast during the so-called "voluntary" phase of the government's evacuation program, and who filed "Change of Residence" cards with the Wartime

Civil Control Administration. "The conferees intend to include individuals who filed Change of Residence cards during the period between the issuance of Public Proclamation No. 1, on March 2, 1942 and Public Proclamation No. 4 on March 27, 1942 as being 'enrolled on the records of the U.S. Government.'" While some individuals may have evacuated after March 2, 1942 but not have been enrolled on such cards, they may be determined on a case by case basis to be eligible if such persons were directly ordered by the government to evacuate. (Clearly, any person of Japanese ancestry who was evacuated form an excluded zone *after* March 29, 1942 is eligible, since such an evacuation would have been a "result" either of Executive Order 9066 or of a military directive pursuant to it.)

There remain those cases, if any, of evacuations occuring *before* March 2, 1942, but *not* in response to a governmental order directed specifically at the evacuees. We believe that if there are any such evacuees, they cannot be considered eligible.

In addition, the Office of Redress Administration received questions pertaining to the eligibility of children born to parents after the parents had voluntarily relocated. While children born in assembly centers and relocation centers are included as eligible for compensation, the proposed regulation does not include as eligible children born after their parents had voluntarily relocated from prohibited military zones or from Assembly Centers or Relocation Centers.

A unique eligibility issue raised by the public pertains to minors who were relocated to Japan during the period beginning on December 7, 1941 and ending on September 2, 1945. Records indicate that some minors who were United States citizens were relocated with their families during this period. Indeed, the Division received several letters of comment from such citizens recounting their difficulties. However, in implementing section 105 of the Act, the Department must follow the clearly restrictive language in section 108(2) that specifically excludes any individual who during the period beginning on December 7, 1941, and ending on September 2, 1945, relocated to a country while the United States was at war with that country. Consequently, the exclusionary language of the Act would preclude from eligibility the minors, as well as adults, who were relocated during the aforementioned time period.

The last major eligibility issue pertains to persons of Japanese ancestry who were sent to the United States from other American countries for restraint and repatriation pursuant to the international commitments of the United States Government for the security of the United States and its associated powers. The plight of these persons is described in the Appendix to Part I of *Personal Justice Denied*. While these individuals were evacuated, relocated or interned similarly to those of Japanese ancestry evacuated from the West Coast, the statute's threshold requirement that an eligible person must be a citizen of the United States or a permanent resident alien excludes most of these persons from redress payment. Records indicate that the people who entered the United States under these international agreements were determined by the Department of Justice to be illegal aliens. As such, they were not lawfully admitted to the United States for permanent residence. Consequently, the restrictive language of the Act pertaining to status, makes such persons ineligible. However, after World War II, some of the Latin American Japanese who were brought to the United States from other American republics for internment were permitted, under applicable statutes, to apply to the Attorney General of the United States for an adjustment of their immigration status, and obtained the status of permanent resident alien extending retroactively to the internment period. Such persons would meet the threshold requirement of being permanent resident aliens during the evacuation, relocation and internment period and, as such, be eligible for compensation. In addition, children born in the United States to the Latin American Japanese during their internment, would, by virtue of their place of birth, be United States citizens and therefore meet the threshold requirement for eligibility.

While this section has endeavored to discuss eligibility issues of public concern, § 74.3 of the proposed regulation specifically sets forth those categories of individuals who are eligible or ineligible for compensation under section 105 of the Act.

II. Verification Procedures

The Act forbids the Government from requiring persons to file claims for redress payments, but states that the Attorney General by using records already in the possession of the United States Government shall locate and identify all eligible persons. However, any eligible person may also notify the Attorney General. In addition, the Attorney General may use any facility or resource of any public or nonprofit organization or any other record document or information that may be made available to the Government. Section 74.5 describes the sources that the Government anticipates using for identification and location of eligible persons. Both official and unofficial sources will be compiled in parallel files (§ 74.6) that will be compared in order to verify an individual's eligibility. However, in some cases names of eligible individuals might not be listed in the files from the official sources and further research will be done by a verification analyst. For example, a comparison of information in two files might not necessarily identify an individual whose name was inadvertently not recorded on a family card at a Relocation Center.

All information compiled in these files is subject to the statutory mandates of the Privacy Act. Therefore, the Civil Rights Division is prohibited from using or releasing this information for purposes other than those described in the Division's Privacy Act Notice of Records Systems.

After an individual is determined to be a potential candidate for redress payment, the regulation provides for a letter of notification to be sent to the individual to notify him or her of a preliminary finding of eligiblity (§ 74.7). Enclosed with the letter will be a form and a request for proof of identification. The Division has completed draft forms which are appended to this proposal as Appendix A to Part 74. The forms pursuant to 28 U.S.C. 1746 are unsworn declarations under penalty of perjury. The purpose of these forms and the requests for documentation is to verify the identity of the individuals in order to prevent fraud or duplication of payments.

III. Notification and Payment

Upon receipt of a person's unsworn declaration, the Redress Administrator will make a final determination of eligibility and notify the individual in writing of his finding (§ 74.8). As required by statute, a person determined to be eligible has up to eighteen months after notification to accept payment. The statute states that a person that accepts payment waives all claims against the United States arising from the acts described in the Act (§ 74.3(a)(5)). The regulation also incorporates the statutory requirement that the refusal to accept payment by a person determined to be eligible must be in writing and such refusal will be final for that person and his or her survivors (§ 74.10).

After funds have been appropriated and actual payments are to be made, the regulations provide that the Assistant

Attorney General for Civil Rights will certify authorization for payment to the Assistant Attorney General for Justice Management who will give final authorization to the Secretary of the Treasury (§ 74.10). The oldest living eligible persons that have been identified at the date the notice goes out, or his or her survivors, will receive payment first (§ 74.12). In accordance with the statute, the categories of survivors who can receive redress payments are limited to spouses, children, and parents (§ 74.13). The methods for establishing proof of relationship to the deceased eligible person is set forth in § 74.14.

IV. Appeal Procedures

In order to fairly resolve those cases in which the Administrator makes a determination of ineligibility, the proposed regulation has established an appeal process. When an individual is notified in writing by the Administrator of a finding of ineligibility, the letter also shall inform the individual that he or she may petition for a reconsideration of the determination of ineligibility to the Assistant Attorney General for Civil Rights, or the official designated by the Assistant Attorney General for Civil Rights, and the right to submit documentation in support of his or her eligibility (§ 74.15). The procedures for filing a request for reconsideration are described in § 74.16.

Section 74.17 describes the appeal procedure in which the Assistant Attorney General for Civil Rights, or the official designated to act on his behalf, reviews the determination of the Redress Administrator and any documentation submitted by the requester, and then notifies the requester of his or her decision to reverse or affirm the Redress Administrator's determination of ineligibility. The decision shall constitute the final action of the Department on that appeal.

This rule is not a major rule within the meaning of Executive Order 12291 (46 FR 13193, 3 CFR 1981 Comp. p. 127). Moreover, a regulatory flexibility analysis has not been prepared under the Regulatory Flexibility Act (5 U.S.C. 601–612), because the rule is unlikely to have a significant economic impact on a substantial number of small entities.

List of Subjects in 28 CFR Part 74

Administrative practice and procedure, Aliens, Archives and records, Citizenship and naturalization, Civil rights, Indemnity payments, Minority groups, Nationality, War claims.

For the reasons set forth in the preamble and by the authority vested in me including 28 U.S.C. 509 and 510, Chapter I of Title 28 of the Code of Federal Regulations is proposed to be amended as follows:

1. Part 74 is added to 28 CFR Chapter I to read as follows:

PART 74—CIVIL LIBERTIES ACT REDRESS PROVISION

Subpart A—General

Sec.

74.1 Purpose.
74.2 Definitions.

Subpart B—Standards of Eligibility

74.3 Eligibility determinations.
74.4 Exclusion from compensation.

Subpart C—Verification Procedures

74.5 Identification and location of eligible persons.
74.6 Determination procedures.
74.7 Notification of a preliminary finding of eligibility.

Subpart D—Notification and Payment

74.8 Notice of eligibility determination.
74.9 Conditions of acceptance of payment.
74.10 Effect of refusal to accept payment.
74.11 Authorization for payment.
74.12 Order of payments.
74.13 Payments to survivors of eligible invididuals.
74.14 Determination of relationship of survivors.

Subpart E—Appeal Procedures

74.15 Notice of the right to appeal a finding of ineligibility.
74.16 Procedures for filing an appeal.
74.17 Action on appeal.
Appendix A to Part 74—Declarations of Eligibility by Persons Identified by the Office of Redress Administration and Requests for Documentation

Authority: 50 U.S.C. App. 1989b.

Subpart A—General

§ 74.1 Purpose.

The purpose of this part is to effectuate section 105 of the Civil Liberties Act of 1988, which authorizes the Attorney General to locate, identify, and make payments to all eligible individuals of Japanese ancestry who were evacuated, relocated, and interned during World War II as a result of government action.

§ 74.2 Definitions.

(a) "The Act" means the Civil Liberties Act of 1988, 50 U.S.C. App. 1989b et seq., Pub. L. 100–383 (August 10, 1988).

(b) "The Administrator" means the Administrator in charge of the Office of Redress Administration of the Civil Rights Division.

(c) "Assembly centers and relocation centers" means those facilities established pursuant to the acts described in § 74.3(a)(4) (i)-(ii).

(d) "Child of an eligible individual" means a recognized natural child, an adopted child, or a step-child who lived with the eligible person in a regular parent-child relationship.

(e) "The Commission" means the Commission on Wartime Relocation and Internment of Civilians established by the Commission on Wartime Relocation and Internment Act, 50 U.S.C. App. 1981 note, Pub. L. 96–317.

(f) "Evacuation, relocation, and internment period" means that period beginning December 7, 1941, and ending June 30, 1946.

(g) "The Fund" means the Civil Liberties Public Education Fund established by section 104 of the Civil Liberties Act of 1988, 50 U.S.C. App. 1989b–3 in the Treasury of the United States and administered by the Secretary of the Treasury.

(h) "The Office" means the Office of Redress Administration established in the Civil Rights Division of the U.S. Department of Justice to execute the responsibilities and duties assigned the Attorney General pursuant to Section 105 of the Civil Liberties Act of 1988, 50 U.S.C. App. 1989b–4

(i) "Parent of an eligible individual" means the natural father and mother, or fathers and mothers through adoption.

(j) "The Report" means published report by the Commission on Wartime Relocation and Internment of Civilians of its findings and recommendations entitiled, *Personal Justice Denied*, Part I and Part II.

(k) "Spouse of an eligible individual" means a wife or husband of an eligible individual who was married to that eligible person for at least one year immediately before the death of the eligible individual.

Subpart B—Standards of Eligibility

§ 74.3 Eligiblity determinations.

(a) An individual is found to be eligible if such an individual:

(1) Is of Japanese ancestry; and

(2) Was living on the date of enactment of the Act, August 10, 1988; and

(3) During the evacuation, relocation, and internment period was—

(i) A United States citizen; or

(ii) A permanent resident alien who was lawfully admitted into the United States; or

(iii) An alien, who after the evacuation, relocation and internment period, was permitted by applicable statutes to obtain the status of

permanent resident alien extending to the internment period; and

(4) Was confined, held in custody, relocated, or otherwise deprived of liberty or property as a result of—

(i) Executive Order Numbered 9066, dated February 19, 1942;

(ii) The Act entitled "An Act to provide a penalty for violation of restrictions or orders with respect to persons entering, remaining, leaving, or committing any act in military areas or zones," approved March 21, 1942 (56 Stat. 173); or

(iii) Any other Executive order, Presidential proclamation, law of the United States, directive of the Armed Forces of the United States, or other action taken by or on behalf of the United States or its agents, representatives, officers, or employees, respecting the evacuation, relocation, or internment of individuals solely on the basis of Japanese ancestry. (b) The following individuals are deemed to have suffered a loss within the meaning of paragraph (a)(4) of this section:

(1) Individuals who were interned under the supervision of the Wartime Relocation Authority, the Department of Justice or the United States Army; or

(2) Individuals enrolled on the records of the United States Government during the period beginning on December 7, 1941, and ending June 30, 1946, as being in a prohibited military zone, including those individuals who, during the voluntary phase of the government's evacuation program between the issuance of Public Proclamation No. 1 on March 2, 1942, and the enforcement of Public Proclamation No. 4 on March 29, 1942, filed a "Change of Residence" card with the Wartime Civil Control Administration; or

(3) Individuals ordered by the Navy to leave Bainbridge Island, off the coast of the State of Washington, or Terminal Island, near San Pedro, California; or

(4) Individuals who were members of the Armed Forces of the United States at the time of the evacuation and internment period and whose domicile was in a prohibited zone and as a result of the government action lost property; or

(5) Individuals who were members of the Armed Forces of the United States at the time of the evacuation and internment period and were prohibited by government regulations from visiting their interned families or forced to submit to undue restrictions amounting to a deprivation of liberty prior to visiting their families; or

(6) Individuals who, after March 29, 1942, evacuated and relocated from the West Coast as a result of government action, including those who obtained written permission to travel to a destination outside of the unauthorized areas from the Western Defense Command and the Fourth Army; or

(7) Individuals born in assembly centers or relocation centers to parents of Japanese ancestry who had been evacuated, relocated or interned pursuant to paragraph (a)(4) of this section, including children born in the United States to parents of Japanese ancestry who were relocated to the United States from other countries in the Americas; or

(8) Individuals who, prior to or at the time of evacuation, relocation or internment period, were in institutions, such as a hospital, and placed under the custody of the Wartime Relocation Authority and confined within the grounds of the institution and not permitted to return to their homes or to go anywhere else pursuant to the acts described in paragraph (a)(4) of the section.

(c) Paragraph (b) of this section is not an exhaustive list of individuals who are deemed eligible for compensation; there will be other individuals determined to be eligible in accordance with the statute on a case-by-case basis by the Redress Administrator.

§ 74.4 Exclusion from compensation.

The term "eligible individual" does not include any individual who, during the period beginning on December 7, 1941, and ending on September 2, 1945, relocated to a country while the United States was at war with that country.

Subpart C—Verification Procedures

§ 74.5 Identification and location of eligible individuals.

(a) The Office shall compile a list of the names and other identifying information of potentially eligible individuals from the following official sources:

(1) The National Archives;

(2) The Department of Justice;

(3) The Social Security Administration;

(4) Internal Revenue Service;

(5) University libraries;

(6) State and local libraries;

(7) State and local historical societies; and

(8) State and local agencies.

(b) The Office shall compile a list of names and other identifying information pertaining to eligible information from the following unofficial sources:

(1) Potentially eligible individuals;

(2) Eligible individuals' relatives, legal guardians, representatives, or attorneys;

(3) Civic Associations;

(4) Religious organizations;

(5) Other.

§ 74.6 Determination procedures.

(a) Information described in § 74.5 will be maintained in two parallel files: One exclusively for officially supplied information; one exclusively for voluntarily supplied information.

(b) The initial verification of an eligible individual who, pursuant to the acts described in § 74.3(d), is listed on a United States Government records as having been—

(1) Processed in an Assembly Center;

(2) Interned in a camp under the supervision of the War Relocation Authority;

(3) Filed a "Change of Residence" card; or

(4) Other.

(c) Will be compared to voluntarily supplied information in the files described in paragraph (a) of this section to determine if the individual so located is the eligible person listed in the official file.

(d) The information to be compared includes:

(1) Name;

(2) Date of birth;

(3) Place of birth;

(4) Race;

(5) Sex;

(6) Current address;

(7) Names of assembly centers and camps at which interned;

(8) Social Security Number;

(9) Other.

(e) The initial verification of an eligible individual not listed on United States Government records as described in paragraph (b) of this section, will be verified by other means on a case-by-case basis. For example, to verify a child born in a relocation camp who is not included on the camp roster, the Office would have to reconstruct the evidence based on the records of his or her parents as described in paragraph (b) of this section, and to receive from the individual where necessary, authoritative documentation of birth.

§ 74.7 Notification of a preliminary finding of eligibility.

(a) Each individual who has been preliminarily found to be eligible or their statutory heirs will be sent written notification of such status by the Office. Enclosed with the notification will be a declaration to be completed by the person so notified, or by his or her legal guardian and a request for documentation of identity.

(b) The declaration and submitted documents (Appendix A to this Part 74) will be used for a final determination of eligibility in order to ensure that the

person identified as eligible by the Office is in fact the person who will receive payment, and will include a request for the following information:

(1) Name as it appears on the official file; or

(2) In cases where a name as it appears on the official file is different from the current legal name, the individual must attach a marriage certificate or other evidence of the name change as described in Appendix A to this part;

(3) Date of birth; and

(4) Proof of date of birth as set forth in Appendix A to this part;

(5) Current address; and

(6) Proof of current address as set forth in Appendix A;

(7) Current telephone number;

(8) Social Security Number; and

(9) A signed and dated statement by the individual swearing under penalty of perjury to the truth of all the information provided on the declaration pursuant to 28 U.S.C. 1746; or

(10) A sworn declaration signed on behalf of a person who being otherwise eligible is incompetent or otherwise under legal disability, by the natural or legal guardian, or any other person, including the spouse of such eligible person, who the Administrator determines is charged with the care of the individual.

(c) Upon receipt of the declaration from a potentially eligible individual, the Administrator shall make a determination of eligibility or ineligibility by comparing the information in the official file as described in § 74.6 against the information submitted in the individual's declaration as described in paragraph (b) of this section.

(d) Each eligible individual will be notified as to a determination of eligibility by the procedure described in § 74.9; and

(e) Each person determined not to be eligible will be notified by the Redress Administrator of the finding of ineligibility and the right to petition for a reconsideration of such a finding.

Subpart D—Notification and Payment

§ 74.8 Notice of eligibility determination.

The Administrator shall, when funds are appropriated for payment, notify an eligible individual in writing of his or her eligibility for payment. Section 104 of the Act, 50 U.S.C. App. 1989b–3, limits any appropriation to not more than $500,000,000 for any fiscal year.

§ 74.9 Conditions of acceptance of payment.

(a) Each eligible individual will be deemed to have accepted payment if after receiving final notification of eligibility from the Redress Administrator, the eligible individual does not refuse payment in the manner described in § 74.10.

(b) Acceptance of payment shall be in full satisfaction of all claims arising out of the acts described in § 74.3(d).

§ 74.10 Effect of refusal to accept payment.

If an eligible individual who has been notified by the Administrator of his or her eligibility for payment refuses within 18 months, in a written document to accept payment, the written record of refusal will be filed with the Office and the amount of payment as described in § 74.11 shall remain in the Fund and no payment may be made as described in § 74.12 to such individual or his or her survivors at any time after the date of receipt of the written refusal.

§ 74.11 Authorization for payment.

(a) Upon determination by the Administrator as to the eligibility of an individual, the authorization for payment of $20,000 to the eligible individual will be certified by the Assistant Attorney General of the Civil Rights Division to the Assistant Attorney General of the Justice Management Division who will give final authorization to the Secretary of the Treasury for payment out of the funds appropriated for this purpose.

(b) Authorization of payments made to survivors of eligible persons will be certified in the manner described in paragraph (a) of this section to the Secretary of the Treasury for payment to the individual member or members of the class of survivors entitled to receive payment under the procedures set forth in § 74.13.

(c) Any payment to an eligible person under a legal disability, may, in the discretion of the Assistant Attorney General for Civil Rights be certified for payment for the use of the eligible person, to the natural or legal guardian, committee, conservator or curator, or if there is no such natural or legal guardian, committee, conservator or curator, to any other person, including the spouse of such eligible person, who the Administrator determines is charged with the care of the eligible person.

§ 74.12 Order of payments.

(a) Payments will be made in the order of the date of birth with the oldest individual living on the date of enactment of the Act (August 10, 1988) receiving payment first; or

(b) With the survivors of the individual as set forth in § 74.13 receiving payment first until all individuals have received payment in full.

§ 74.13 Payment to survivors of eligible individuals.

(a) In the case of an eligible individual as described in § 74.3 who is deceased, payment shall be made only as follows—

(1) If the eligible individual is survived by a spouse who is living at the time of payment, such payment shall be made to such surviving spouse.

(2) If there is no surviving spouse as described in paragraph (a)(1) of this section such payment shall be made in equal shares to all children of the eligible individual who are living at the time of payment.

(3) If there is no surviving spouse described in paragraph (a)(1) of this section, and if there are no surviving children as described in paragraph (a)(2) of this section, such payment shall be made in equal shares to the parents of the deceased eligible individual who are living at the time of payment.

(b) If there are no surviving spouses, children or parents as described in paragraph (a) of this section, the amount of such payment shall remain in the Fund and may be used only for the purposes set forth in section 106(b) of the Act, 50 U.S.C. App. 1989b–5.

§ 74.14 Determination of relationship of survivors.

(a) A spouse of a deceased eligible individual should establish his or her marriage by one (or more) of the following types of evidence in the following order of preference:

(1) Copy of the public records of marriage, certified or attested, or by an abstract of the public records, containing sufficient data to identify the parties, the date and place of marriage, and the number of prior marriages by either party if shown on the official record, issued by the officer having custody of the record or other public official authorized to certify the record, or a certified copy of the religious record of marriage;

(2) Official report from a public agency as to a marriage which occurred while the deceased eligible individual was employed by such agency;

(3) The affidavit of the clergyman or magistrate who officiated;

(4) The original certificate of marriage accompanied by proof of its genuineness and the authority of the person to perform the marriage;

(5) The affidavits or sworn statements of two or more eyewitnesses to the ceremony;

(6) In jurisdictions where "Common Law" marriages are recognized, the affidavits or certified statements of the spouse setting forth all of the facts and circumstances concerning the alleged marriage, such as the agreement between the parties at the beginning of their cohabitation, places and dates of residences, and whether children were born as the result of the relationship. This evidence should be supplemented by affidavits or certified statements from two or more persons who know as the result of personal observation the reputed relationship which existed between the parties to the alleged marriage, including the period of cohabitation, places of residences, whether the parties held themselves out as husband and wife and whether they were generally accepted as such in the communities in which they lived; or

(7) Any other evidence which would reasonably support a belief by the Administrator that a valid marriage actually existed.

(b) A child should establish that he or she is the child of a deceased eligible individual by one of the following types of evidence:

(1) A birth certificate showing that the deceased eligible individual was the child's parent;

(2) If the birth certificate does not show the deceased eligible individual as the child's parent, the sufficiency of evidence will be determined in accordance with the facts of a particular case. Proof of the relationship may consist of—

(i) An acknowledgement in writing signed by the deceased eligible individual; or

(ii) Evidence that the deceased eligible individual has been identified as the child's parent by a judicial decree ordering the deceased eligible individual to contribute to the child's support or for other purposes; or

(iii) Any other evidence that reasonably supports a finding of a parent-child relationship, such as—

(A) A certified copy of the public record of birth or a religious record showing that the deceased eligible individual was the informant and was named as the parent of the child; or

(B) Affidavits or sworn statements of a person who knows that the deceased eligible individual accepted the child as his or hers; or

(C) Information obtained from a public agency or public records, such as school or welfare agencies, which shows that with the deceased eligible individual's knowledge, the deceased eligible individual was named as the parent of the child.

(c) Except as may be provided in paragraph (b) of this section, evidence of the relationship by an adopted child must be shown by a certified copy of the decree of adoption and such other evidence as may be necessary. In jurisdictions where petition must be made to the court for release of adoption documents or information, or where the release of such documents or information is prohibited, a revised birth certificate will be sufficient to establish the fact of adoption.

(d) The relationship of a step-child to a deceased eligible individual shall be demonstrated by—

(1) Evidence of birth to the spouse of the deceased eligible individual as required by paragraphs (e) and (f) of this section; or

(2) If adopted by the spouse, evidence of adoption as required by paragraph (b) of this section; or

(3) Other evidence which reasonably supports the existence of a parent-child relationship between the child and the spouse; and

(4) Evidence that the step-child was either—

(i) Living with; or

(ii) In a parent-child relationship with the deceased eligible individual at the time of the eligible individual's death; and

(5) Evidence of the marriage of the deceased eligible individual and the spouse, as required by paragraph (a) of this section.

(e) A parent of a deceased eligible individual may establish his or her parenthood of the deceased eligible individual by providing the following types of evidences:

(1) A birth certificate that shows the person to be the deceased eligible individual's parent; or

(2) An acknowledgment in writing signed by the person before the eligible individual's death; or

(3) Any other evidence which reasonably supports a finding of such a parent-child relationship, such as—

(i) A certified copy of the public record of birth or a religious record showing that the claimant was the informant and was named as the parent of the deceased eligible individual; or

(ii) Affidavits or sworn statements of persons who know the person had accepted the deceased eligible individual as his or her child; or

(iii) Information obtained from a public agency or public records, such as school or welfare agencies, which shows that with the deceased eligible individual's knowledge, the person had been named as parent of the child.

(f) An adoptive parent of a deceased eligible individual must show the following evidence—

(1) A certified copy of the decree of adoption and such other evidence as may be necessary; or

(2) In jurisdictions where petition must be made to the court for release of such documents or information, or where release of such documents or information is prohibited, a revised birth certificate showing the person as the deceased eligible individual's parent will suffice.

Subpart E—Appeal Procedures

§ 74.15 Notice of the right to appeal a finding of ineligibility.

Persons determined to be ineligible by the Administrator will be notified in writing of the determination and of the right to petition for a reconsideration of the determination of ineligibility to the Assistant Attorney General for Civil Rights, and the right to submit any documentation in support of eligibility.

§ 74.16 Procedures for filing an appeal.

A request for reconsideration should be made to the Assistant Attorney General for Civil Rights within 60 days of the receipt of the notice from the Administrator of a determination of ineligibility. The request shall be made in writing, addressed to the Assistant Attorney General of the Civil Rights Division, P.O. Box 65808, Washington, DC 20035–5808. Both the envelope and the letter of appeal itself must be clearly marked: "Redress Appeal." A request not so addressed and marked shall be forwarded to the Office of the Assistant Attorney General for Civil Rights, or the official designated to act on his behalf, as soon as it is identified as an appeal of eligibility. An appeal that is improperly addressed shall be deemed not to have been received by the Department until the Office receives the appeal, or until the appeal would have been so received with the exercise of due diligence by Department personnel.

§ 74.17 Action on appeal.

The Assistant Attorney General or the official designated to act on his behalf shall:

(a) Review the original determination; and

(b) Review additional information or documentation submitted by the individual to support a finding of eligibility; and

(c) Where a determination of ineligibility is reversed on appeal, the individual shall be so notified and the Redress Administrator shall be so informed; or

(d) Where there is a decision affirming the determination of ineligibility, the letter to the individual shall include a statement of the reason or reasons for the affirmance.

(e) A decision of affirmance shall constitute the final action of the Department on that redress appeal.

Appendix A to Part 74—Declarations of Eligibility by Persons Identified by the Office of Redress Administration and Requests for Documentation

Form A:

Declaration of Eligibility by Persons Identified by the Office of Redress Administration

U.S. Department of Justice, Civil Rights Division, Office of Redress Administration

This declaration shall be executed by the identified eligible person or such person's designated representative.

Complete the following information:

(1) Current Legal Name: _____
(2) Current Address:
Street: _____
City, State and Zip Code: _____
(3) Telephone Number:

_____
(Home)

_____
(Business)

(4) Social Security Number: _____
(5) Date of Birth: _____
(6) Name Used When Evacuated or Interned: _____

Read the following carefully before signing this document. A False Statement may be grounds for punishment by fine (U.S. Code, Title 31, Section 3729), and fine or imprisonment or both (U.S. Code, Title 18, Section 287 and Section 1101).

I declare under penalty of perjury that the foregoing is true and correct.

_____
Signature

_____
Date

Privacy Act statement: The authority for this information is contained in 50 U.S.C. app. 1989b. The information that you provide will be used principally for verifying eligible persons for payment under the restitution provision of the Civil Liberties Act of 1988.

Required Documentation

The following documentation must be submitted with the above Declaration to complete your verification.

Submit only *original* records, not copies. All documents attached to the Declaration will be returned to the sender within 15 working days.

Documentation:

I. *Two* Documents of Identification

1. Photo identification with your current legal name.

2. A document to establish your current address: Preferred evidence would be bank or financial statements, monthly utility bills, employment identification cards.

II. One Document of Date of Birth

Attach to this declaration *ONE* of the following types of evidence to establish your date of birth:

1. An original birth certificate; or
2. An original hospital birth record recorded before the age of five; or
3. An original religious record which shows your date of birth and was recorded before age five; or
4. An original family Bible or family record; or
5. An original school record; or
6. An expired passport; or
7. An original employment record; or
8. Affidavits of two or more persons attesting to the date of birth.

III. One Document of Name Change

If your current legal name is the same as your name when evacuated or interned this section does not apply.

This section is only required for persons whose current legal name is different from the name used when evacuated or interned.

Attach *one* of the following as evidence of the change of legal name:

1. A certified copy of the public record of marriage; or
2. A certified copy of the divorce decree; or
3. A certified copy of the court order of a name change; or
4. Affidavits or sworn statements of two or more persons attesting to the name change.

IV. One Document of Evidence of Guardianship

If you are executing this document for the person identified as eligibile, you must submit evidence of your authority.

If you are the legally-appointed guardian, committee, or other legally-designated representative of such an individual, the evidence shall be a certificate executed by the proper official of the court appointment.

If you are not such a legally-designated representative, the evidence shall be an affidavit describing your relationship to the recipient or the extent to which you have the care of the recipient or your position as an officer of the institution of which the recipient is institutionalized.

Form B:

Declaration of Verification by Persons Identified as Statutory Heirs by the Office of Redress Administration.

U.S. Department of Justice, Civil Rights Division, Office of Redress Administration

This declaration shall be executed by the spouse of a deceased eligible individual as statutory heir in accordance with Section 105(a)(7) of the Civil Liberties Act of 1988, 50 U.S.C. app. 1989b.

Complete the following information:

(1) Current Legal Name: _____
(2) Current Address:
Street: _____
City, State and Zip Code: _____
(3) Telephone Number:

_____
Home

_____
Business

(4) Social Security number: _____
(5) Date of Birth: _____
(6) Relationship to the Deceased: _____
(7) Date of marriage to the Deceased: _____

Read the following carefully before signing this document.

A False Statement may be grounds for punishment by fine (U.S. Code, Title 31, Section 3729), and fine or imprisonment or both (U.S. Code, Title 18, Section 287 and Section 1101).

I declare under penalty of perjury that the foregoing is true and correct.

_____
Signature

_____
Date

Privacy Act statement: The authority for this information is contained in 50 U.S.C. app. 1989b. The information that you provide will be used principally for verifying eligible persons for payment under the restitution provision of the Civil Liberties Act of 1988.

Required Documentation

The following documentation must be submitted with the above Declaration to complete your verification.

Submit only *original* records, not copies. All documents attached to the Declaration will be returned to the sender within 15 working days.

Documentation:

I. One Document as Evidence of the Deceased Eligible Individual's Death

Submit *one* of the following as evidence. Preferred evidence would be:

1. A certified copy or extract from the public records of death, coroner's report of death, or verdict of a coroner's jury.

2. A certificate by the custodian of the public record of death.

3. A statement of the funeral director or attending physician, or intern of the institution where death occurred.

4. A certified copy, or extract from an official report or finding of death made by an agency or department of the United States.

5. If death occurred outside the United States, an official report of death by a United States Consul or other employee of the State Department, or a copy of public record of death in the foreign country.

6. If you cannot obtain the preferred evidence of a person's death, he or she will be asked to explain why and submit other convincing evidence to ORA such as the signed statements of two or more people with personal knowledge of the death, giving the place, date, and cause of death.

II. One Document as Evidence of Your Relationship to the Deceased Eligible Individual

1. A copy of the public records of marriage, certified or attested, or by an abstract of the public records, containing sufficient data to identify the parties, the date and place of marriage, and the number of prior marriages by either party if shown on the official record, issued by the officer having custody of the record or other public official authorized to certify the record, or a certified copy of the religious record of marriage;

2. An official report from a public agency as to a marriage which occurred while the

deceased eligible individual was employed by such agency.

3. The affidavit of the clergyman or magistrate who officiated.

4. The original certificate of marriage accompanied by proof of its genuineness and the authority of the person to perform the marriage.

5. The affidavits or sworn statements of two or more eyewitnesses to the ceremony.

6. In jurisdictions where "Common Law" marriages are recognized, the affidavits or certified statements of the spouse setting forth all of the facts and circumstances concerning the alleged marriage, such as the agreement between the parties at the beginning of their cohabitation, places and dates of residences, and whether children were born as the result of the relationship. This evidence should be supplemented by affidavits or certified statements from two or more persons who know as the result of personal observation the reputed relationship which existed between the parties to the alleged marriage, including the period of cohabitation, places of residences, whether the parties held themselves out as husband and wife and whether they were generally accepted as such in the communities in which they lived.

7. Any other evidence which would reasonably support a belief by the Administrator that a valid marriage actually existed.

III. Two Documents of Identification

Submit *both* of the following as evidence.

1. An identification with your photograph and with your current legal name.

2. A document to establish your current address such as monthly utility bills, bank or financial statements, employment identification cards.

IV. One Document of Date of Birth

1. An original birth certificate.

2. An original hospital birth record recorded before the age of five.

3. An original religious record which shows your date of birth and was recorded before age five.

4. An original family bible or family record.

5. An original school record.

6. An expired passport.

7. An original employment record.

8. Affidavits of two or more persons attesting to the date of birth.

V. One Document of Name Change

If your current legal last name is the same as the last name of the deceased eligible individual or the same as at the time of marriage this section does not apply.

This section is only required for persons whose current legal last name is different from the last name of the deceased eligible.

Submit *one* of the following as evidence of the change of legal name.

1. A certified copy of the public record of marriage.

2. A certified copy of the divorce decree.

3. A certified copy of the court order of a name change.

4. Affidavits or sworn statements of two or more persons attesting to the name change.

VI. One Document of Evidence of Guardianship

If you are executing this document for the person identified as eligible you must submit evidence of your authority.

If you are the legally-appointed guardian, committee, or other legally-designated representative of such an individual, the evidence shall be a certificate executed by the proper official of the court appointment.

If you are not such a legally-designated representative, the evidence shall be an affidavit describing your relationship to the recipient or the extent to which you have the care of the recipient or your position as an officer of the institution of which the recipient is institutionalized.

Form C:

Declaration of Verification by Persons Identified by the Office of Redress Administration as Statutory Heirs.

U.S. Department of Justice, Civil Rights Division, Office of Redress Administration

This declaration shall be executed by the child of a deceased eligible individual as a statutory heir in accordance with Section 105(a)(7) of the Civil Liberties Act of 1988, 50 U.S.C. app. 1989b.

Complete the following information:

(1) Current Legal Name: _____

(2) Current Address:

Street: _____

City, State and Zip Code: _____

(3) Telephone Number: :

_____

Home

_____

Business

(4) Social Security Number: _____

(5) Date of Birth: _____

(6) Relationship to the Deceased: _____

(7) List the names and addresses (if known) of all other children of the deceased eligible individual. This includes all recognized natural children, step children who lived with the deceased eligible and adopted children. Enter the date of death for any persons who are deceased.

_____

_____

_____

Read the following carefully before signing this document. A False Statement may be grounds for punishment by fine (U.S. Code, Title 31, Section 3729), and fine or imprisonment or both (U.S. Code, Title 18, Section 287 and Section 1101).

I declare under penalty of perjury that the foregoing is true and correct.

_____

Signature

_____

Date

Privacy Act statement: The authority for this information is contained in 50 U.S.C. app. 1989b. The information that you provide will be used principally for verifying eligible persons for payment under the restitution provision of the Civil Liberties Act of 1988.

Required Documentation for Children of Deceased Eligible Individual

The following documentation must be submitted with the above Declaration to complete your verification.

Submit only *original* records, not copies. All documents attached to the Declaration will be returned to the sender within 15 working days.

Documentation:

I. One Document as Evidence of the Deceased Eligible Individual's Death

1. A certified copy or extract from the public records of death, coroner's report of death, or verdict of a coroner's jury.

2. A certificate by the custodian of the public record of death.

3. A statement of the funeral director or attending physician, or intern of the institution where death occurred.

4. A certified copy, or extract from an official report or finding of death made by an agency or department of the United States.

5. If death occurred outside the United States, an official report of death by a United States Consul or other employee of the State Department; or a copy of public record of death in the foreign country.

6. If you cannot obtain the preferred evidence of a person's death, you will be asked to explain why and submit other convincing evidence to ORA such as the signed statements of two or more people with personal knowledge of the death, giving the place, date, and cause of death.

II. One Document as Evidence of Your Relationship to the Deceased Eligible Individual

Natural Child

1. A birth certificate showing that the deceased eligible individual was your parent.

2. If the birth certificate does not show the deceased eligible individual as your parent, other proof would be:

(a) An acknowledgment in writing signed by the deceased eligible individual.

(b) A judicial decree ordering the deceased eligible individual to contribute to your support or for other purposes.

(c) A certified copy of the public record of birth or a religious record showing that the deceased eligible individual was the informant and was named as your parent.

(d) Affidavits or sworn statements of a person who knows that the deceased eligible individual accepted the child as his or hers.

(e) A record obtained from a public agency or public records, such as school or welfare agencies, which shows that with the deceased eligible individual's knowledge, the deceased eligible individual was named as the parent of the child.

Adopted Child

Evidence of the relationship by an adopted child must be shown by a certified copy of the decree of adoption. In jurisdictions where petition must be made to the court for release of adoption documents or information, or where the release of such documents or information is prohibited, a revised birth certificate will be sufficient to establish the fact of adoption.

Step-Child

Submit all *three* as evidence of the step-child relationship.

1. One document as evidence of birth to the spouse of the deceased eligible individual.

Preferred evidence would be a birth certificate or other evidence of birth to the spouse of the deceased eligible individual as required in the section for a natural child of a deceased eligible. If adopted by the spouse, evidence of adoption as required in the section for an adopted child of a deceased eligible.

Other evidence would be a document which reasonably supports the existence of a parent-child relationship between the child and the spouse.

2. One document as evidence that the step-child was either living with or in a parent-child relationship with the deceased eligible individual at the time of the eligible individual's death.

3. One document as evidence of the marriage of the deceased eligible individual and the spouse, such as a copy of the record of marriage, certified or attested, or by an abstract of the public records, containing sufficient data to identify the parties and the date and place of marriage issued by the officer having custody of the record, or a certified copy of a religious record of marriage.

III. Two Documents of Identification

Submit *both* of the following as evidence.

1. An identification with your photograph and with your current legal name.

2. A document to establish your current address such as monthly utility bills, bank or financial statements, employment identification cards.

IV. One Document of Date of Birth

1. An original birth certificate.

2. An original hospital birth record recorded before the age of five.

3. An original religious record which shows your date of birth and was recorded before age five.

4. An original family bible or family record.

5. An original school record.

6. An expired passport.

7. An original employment record.

8. Affidavits of two or more persons attesting to the date of birth.

V. One Document of Name Change

If your current legal last name is the same as the last name of the deceased eligible this section does not apply.

This section is only required for persons whose current legal last name is different from the last name of the deceased eligible.

Submit *one* of the following as evidence of the change of legal name.

1. A certified copy of the public record of marriage.

2. A certified copy of the divorce decree.

3. A certified copy of the court order of a name change.

4. Affidavits or sworn statements of two or more persons attesting to the name change.

VI. *One* Document of Evidence of Guardianship

If you are executing this document for the person identified as an eligible beneficiary, you must submit evidence of your authority.

If you are a legally-appointed guardian, committee, or other legally-designated representative of such an individual, the evidence shall be a certificate executed by the proper official of the court appointment.

If you are not such a legally-designated representative, the evidence shall be an affidavit describing your relationship to the recipient or the extent to which you have the care of the recipient or your position as an officer of the institution of which the recipient is institutionalized.

Form D:

Declaration of Verification by Persons Identified by the Office of Redress Administration as Statutory Heirs.

U.S. Department of Justice, Civil Rights Division, Office of Redress Administration

This declaration shall be executed by the identified parent of a deceased eligible individual as statutory heir in accordance with Section 105(a)(7) of the Civil Liberties Act of 1988, 50 U.S.C. app. 1989b.

Complete the following information:

(1) Current Legal Name:_____

(2) Current Address:

Street:_____

City, State and Zip Code: _____

(3) Telephone Number:

_____

Home

_____

Business

(4) Social Security Number: _____

(5) Date of Birth: _____

(6) Relationship to the Deceased: _____

(7) The name of the child's other parent and the address if known. This includes fathers and mothers through adoption. If the parent is deceased provide the date and place of death.

_____

Read the following carefully before signing this document. A False Statement may be gounds for punishment by fine (U.S. Code, Title 31, Section 3729), and fine or imprisonment or both (U.S. Code, Title 18, Section 287 and Section 1101).

I declare under penalty of perjury that the foregoing is true and correct.

_____

Signature

_____

Date

Privacy Act Statement: The authority for this information is contained in 50 U.S.C. app. 1989b. The information that you provide will be used principally for verifying eligible persons for payment under the restitution provision of the Civil Liberties Act of 1988.

Required Documentation

The following documentation must be submitted with the above Declaration to complete your verification.

Submit only *original* records, not copies. All documents attached to the Declaration will be returned to the sender within 15 working days.

Documentation:

I. *One* Document as Evidence of the Deceased Eligible's Death

1. A certified copy or extract from the public records of death, coroner's report of death, or verdict of a coroner's jury.

2. A certificate by the custodian of the public record of death.

3. A statement of the funeral director or attending physician, or intern of the institution where death occurred.

4. A certified copy, or extract from an official report or finding of death made by an agency or department of the United States.

5. If death occurred outside the United States, an official report of death by a United States Consul or other employee of the State Department; or a copy of public record of death in the foreign country.

6. If you cannot obtain the preferred evidence of a person's death, you will be asked to explain why and submit other convincing evidence to ORA such as: the signed statements of two or more people with personal knowledge of the death, giving the place, date, and cause of death.

II. *One* Document as Evidence of Your Relationship to the Deceased Eligible

Natural Parent

1. A birth certificate that shows you to be the deceased eligible individual's parent.

2. An acknowledgment in writing signed by the person before the eligible individual's death.

3. Any other evidence which reasonably supports a finding of such a parent-child relationship, such as a certified copy of the public record of birth or a religious record showing that the person was the informant and was named as the parent of the deceased eligible individual.

4. Affidavits or sworn statements of persons who know the person had accepted the deceased eligible individual as his or her child.

5. Information obtained from a public agency or public records, such as school or welfare agencies, which shows that with the deceased eligible individual's knowledge, you named as parent.

Adoptive Parent

1. A certified copy of the decree of adoption and such other evidence as may be necessary.

2. In jurisdictions where petition must be made to the court for release of such documents or information, or where release of such documents or information is prohibited, a revised birth certificate showing the person as the deceased eligible individual's parent will suffice.

III. *Two* Documents of Identification

Submit *both* of the following as evidence.

1. An identification with your photograph and with your current legal name.

2. A document to establish your current address such as monthly utility bills, bank or financial statements, employment identification cards.

IV. *One* Document of Date of Birth

Submit *one* of the following types of evidence to establish your date of birth.

1. An original birth certificate.

2. An original hospital birth record recorded before the age of five.

3. An original religious record which shows your date of birth and was recorded before age five.

4. An original family bible or family record.
5. An original school record.
6. An expired passport.
7. An original employment record
8. Affidavits of two or more persons attesting to the date of birth.

V. *One* Document of Name Change

If your current legal last name is the same as the last name of the deceased eligible individual this section does not apply.

This section is only required for persons whose current legal last name is different from the last name of the deceased eligible.

Submit *one* of the following as evidence of the change of legal name.

1. A certified copy of the public record of marriage.
2. A certified copy of the divorce decree.
3. A certified copy of the court order or a name change.
4. Affidavits or sworn statements of two or more persons attesting to the name change.

VI. *One* Document of Evidence of Guardianship

If you are executing this document for the person identified as eligible you must submit evidence of your authority.

If you are the legally-appointed guardian, committee, or other legally-designed representative of such an individual, the evidence shall be a certificate executed by the proper official of the court appointment.

If you are not such a legally-designated representative, the evidence shall be an affidavit describing your relationship to the recipient or the extent to which you have the care of the recipient or your position as an officer of the institution of which the recipient is institutionalized.

Date: June 7, 1989.

Dick Thornburgh,

Attorney General.

[FR Doc. 89-14000 Filed 6-13-89; 8:45 am]

BILLING CODE 4410-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[SW-FRL-3601-8]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Proposed Denial

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule and request for comment.

SUMMARY: The Environmental Protection Agency (EPA or Agency) today is proposing to deny a petition submitted by Rock Island Refining Corporation, Indianapolis, Indiana, to exclude certain solid wastes generated at its facility from the lists of hazardous wastes contained in 40 CFR 261.31 and 261.32. This action responds to a delisting petition submitted under 40 CFR 260.20, which allows any person to petition the Administrator to modify or revoke any provision of Parts 260 through 268, 124, 270, and 271 of Title 40 of the Code of Federal Regulations, and under 40 CFR 260.22, which specifically provides generators the opportunity to petition the Administrator to exclude a waste on a "generator-specific" basis from the hazardous waste lists. Today's proposed decision is based on an evaluation of waste-specific information provided by the petitioner.

The Agency is also proposing the use of an organic leachate model and a fate and transport model and their application in evaluating the waste-specific information provided by the petitioner. These models have been used in evaluating the petition to predict the concentration of hazardous constituents released from the petitioned waste, once it is disposed of.

DATES: EPA is requesting public comments on today's proposed decision and on the applicability of the organic leachate and fate and transport models used to evaluate the petition. Comments will be accepted until July 31, 1989. Comments postmarked after the close of the comment period will be stamped "late". Any person may request a hearing on this proposed decision and/or the models used in the petition evaluation by filing a request with Joseph Carra, whose address appears below, by June 29, 1989. The request must contain the information prescribed in 40 CFR 260.20(d).

ADDRESSES: Send three copies of your comments to EPA. Two copies should be sent to the Docket Clerk, Office of Solid Waste (OS-305), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. A third copy should be sent to Jim Kent, Variances Section, Assistance Branch, PSPD/OSW (OS-343), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. Identify your comments at the top with this regulatory docket number: "F-89-RIDP-FFFFF".

Requests for a hearing should be addressed to Joseph Carra, Director, Permits and State Programs Division, Office of Solid Waste (OS-340), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

The RCRA regulatory docket for this proposed rule is located at the U.S. Environmental Protection Agency, 401 M Street, SW. (Room M2427), Washington, DC 20460, and is available for viewing from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding Federal holidays. Call (202) 475-9327 for appointments. The public may copy material from any regulatory docket at a cost of $0.15 per page.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA Hotline, toll free at (800) 424-9346, or at (202) 382-3000. For technical information concerning this notice, contact Terry Grist, Office of Solid Waste (OS-343), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (202) 382-4782.

SUPPLEMENTARY INFORMATION:

I. Background

A. Authority

On January 16, 1981, as part of its final and interim final regulations implementing section 3001 of RCRA, EPA published an amended list of hazardous wastes from non-specific and specific sources. This list has been amended several times, and is published in 40 CFR 261.31 and 261.32. These wastes are listed as hazardous because they typically and frequently exhibit one or more of the characteristics of hazardous wastes identified in Subpart C of Part 261 (*i.e.*, ignitability, corrosivity, reactivity, and extraction procedure (EP) toxicity) or meet the criteria for listing contained in 40 CFR 261.11 (a)(2) or (a)(3).

Individual waste streams may vary, however, depending on raw materials, industrial processes, and other factors. Thus, while a waste that is described in these regulations generally is hazardous, a specific waste from an individual facility meeting the listing description may not be. For this reason, 40 CFR 260.20 and 260.22 provide an exclusion procedure, allowing persons to demonstrate that a specific waste from a particular generating facility should not be regulated as a hazardous waste.

To have their wastes excluded, petitioners must show that wastes generated at their facilities do not meet any of the criteria for which the wastes were listed. See 40 CFR 260.22(a) and the background documents for the listed wastes. In addition, the Hazardous and Solid Waste Amendments (HSWA) of 1984 require the Agency to consider any factors (including additional constituents) other than those for which the waste was listed, if there is a reasonable basis to believe that such additional factors could cause the waste to be hazardous. Accordingly, a petitioner also must demonstrate that the waste does not exhibit any of the hazardous waste characteristics (*i.e.*, ignitability, reactivity, corrosivity, and EP toxicity), and must present sufficient information for the Agency to determine whether the waste contains any other toxicants at hazardous levels. See 40 CFR 260.22(a), 42 U.S.C. 6921(f), and the

background documents for the listed wastes. Although wastes which are "delisted" (*i.e.*, excluded) have been evaluated to determine whether or not they exhibit any of the characteristics of hazardous waste, generators remain obligated to determine whether or not their waste remains non-hazardous based on the hazardous waste characteristics.

In addition to wastes listed as hazardous in 40 CFR 261.31 and 261.32, residues from the treatment, storage, or disposal of listed hazardous wastes and mixtures containing hazardous wastes also are eligible for exclusion and remain hazardous wastes until excluded. See 40 CFR 261.3 (c) and (d)(2). The substantive standard for "delisting" a treatment residue or a mixture is the same as previously described for listed wastes.

B. Approach Used to Evaluate This Petition

In making a delisting determination, the Agency evaluates each petitioned waste against the listing criteria and factors cited in 40 CFR 261.11 (a)(2) and (a)(3). If the Agency believes that the waste remains hazardous based on the factors for which the waste was originally listed, EPA will propose to deny the petition. If, however, the Agency agrees with the petitioner that the waste is non-hazardous with respect to the original listing criteria, EPA then will evaluate the waste with respect to other factors or criteria, if there is a reasonable basis to believe that such additional factors could cause the waste to be hazardous. The Agency considers whether the waste is acutely toxic, and considers the toxicity of the constituents, the concentration of the constituents in the waste, their tendency to migrate and to bioaccumulate, their persistence in the environment once released from the waste, plausible and specific types of management of the petitioned waste, the quantities of waste generated, and any other additional factors which may characterize the petitioned waste.

The Agency is proposing to use such information to identify plausible exposure routes for hazardous constituents present in the waste, and is proposing to use an organic leachate model and a particular fate and transport model to predict the concentration of hazardous constituents that may be released from the petitioned waste after disposal and to determine the potential impact of the unregulated disposal of Rock Island's petitioned waste on human health and the environment. Specifically, the models will be used to predict compliance-point concentrations which will be compared directly to the levels of regulatory concern for particular hazardous constituents.

EPA believes that this fate and transport model represents a reasonable worst-case waste disposal scenario for the petitioned waste, and that a reasonable worst-case scenario is appropriate when evaluating whether a waste should be relieved of the protective management constraints of RCRA Subtitle C. Because a delisted waste is no longer subject to hazardous waste control, the Agency is generally unable to predict and does not control how a waste will be managed after delisting. Therefore, EPA currently believes that it is inappropriate to consider extensive site-specific factors. For example, a generator may petition the Agency for delisting of a metal hydroxide sludge which is currently being managed in an on-site landfill and provide data on the nearest drinking water well, permeability of the aquifer, dispersivities, etc. If the Agency were to base its evaluation solely on these site-specific factors, the Agency might conclude that the waste, at that specific location, cannot affect the closest well, and the Agency might grant the petition. Upon promulgation of the exclusion, however, the generator is under no obligation to continue to manage the waste at the on-site landfill. In fact, it is likely that the generator will either choose to send the delisted waste off site immediately, or will eventually reach the capacity of the on-site facility and subsequently send the waste off site to a facility which may have very different hydrogeological and exposure conditions.

The Agency also considers the applicability of ground-water monitoring data to its evaluation of delisting petitions. In this case, the Agency determined that it would be inappropriate to request ground-water monitoring data because Rock Island sends the petitioned waste off site for disposal. For petitioners using off-site management, the Agency believes that, in most cases, the ground-water monitoring data collected would not be meaningful. Most commercial land disposal facilities accept wastes from numerous generators. Any ground-water contamination or leachate would be characteristic of the total volume of waste disposed of at the site. In most cases, the Agency believes that it would be impossible to isolate ground-water impacts associated with any one waste disposed of in a commercial landfill. Therefore, the Agency did not request ground-water monitoring data.

Finally, the Hazardous and Solid Waste Amendments of 1985 specifically require the Agency to provide notice and an opportunity for comment before granting or denying a final exclusion. Thus, a final decision will not be made until all public comments (including those at requested hearings, if any) on today's proposal are addressed.

II. Disposition of Delisting Petition

A. Rock Island Refining Corporation, Indianapolis, Indiana

1. Petition for Exclusion

Rock Island Refining Corporation (Rock Island) located in Indianapolis, Indiana, is a petroleum refinery producing a wide range of fuels from the processing and fractionation of crude oil. Refinery processes include distillation, redistillation, and cracking. Rock Island petitioned the Agency to exclude its filter press cake generated from the treatment of the following sludges: EPA Hazardous Waste No. K049—"Slop oil emulsion solids from the petroleum refining industry"; EPA Hazardous Waste No. K050—"Heat exchanger bundle cleaning sludge from the petroleum refining industry"; and EPA Hazardous Waste No. K051—"API separator sludge from the petroleum refining industry". The listed constituents for EPA Hazardous Waste Nos. K049 and K051 are hexavalent chromium and lead; the listed constituent for EPA Hazardous Waste No. K050 is hexavalent chromium.

Rock Island petitioned to exclude its waste because it does not believe that the waste meets the criteria of the listing. Rock Island claims that its waste is not hazardous because the constituents of concerns are present either in insignificant concentrations or, if present at significant levels, are essentially in immobile forms. Rock Island also believes that this waste is not hazardous for any other reason (*i.e.*, there are no additional constitutents or factors that could cause the waste to be hazardous). Review of this petition included consideration of the original listing criteria, as well as the additional factors required by the Hazardous and Solid Waste Amendments of 1984. See Section 222 of the Amendments, 42 U.S.C. 6921(f), and 40 CFR 260.22(d) (2)–(4). Today's proposal to deny this petition for delisting is the result of the Agency's evaluation of Rock Island's petition.

2. Background

Rock Island submitted its petition to exclude its filter press cake from hazardous waste regulation on October 21, 1981. The Agency issued a temporary

exclusion for this waste by letter on March 12, 1982 after a preliminary review of the petition. (Prior to the passage of the Hazardous and Solid Waste Amendments (HSWA) of 1984, the Agency granted temporary exclusions if there was a likelihood that a final exclusion would be granted.) On January 6, 1984, November 26, 1984, and September 18, 1985, the Agency requested that Rock Island submit information necessary to complete its petition. The Agency requested that this information be submitted by November 15, 1985 so that the HSWA requirement, to finalize decisions on all temporary exclusions by November 8, 1986, could be satisfied. (See 42 U.S.C. 6921(f)(2)(B)). To date, the Agency has not received information believed necessary to fully characterize the petitioned waste. On January 17, 1986, EPA proposed to deny Rock Island's petition and revoke their temporary exclusion on the basis that Rock Island had failed to submit a complete petition (see 51 FR 2526–2529).[1]

On October 24, 1986, EPA published a notice of availability and request for comment regarding EPA's technical reasons for requiring petroleum refining petitioners to submit analytical data for certain hazardous constituents in their various petitioned wastes (see 51 FR 37767–37768). This notice also indicated that Rock Island had not supplied these data. In response to this notice, Rock Island supplied (1) analytical data for one sample of vacuum filter cake, and (2) comments on the Agency's list of constituents of concern for petitions to exclude petroleum refining wastes. Rock Island strongly questioned whether EPA had the authority and a sufficient basis to require information on additional hazardous constituents of concern in its petitioned waste. As a result, Rock Island believed that EPA could not properly deny its petition for lack of information. Rock Island also requested a 30 day extension of the comment period. The Agency granted an extension on December 19, 1986 (51 FR 45485). The Agency received no additional data or comments.

The Agency did not make a final decision on Rock Island's petition by November 8, 1986, and, by operation of the statute, the facility lost its temporary exclusion and immediately became subject to the requirements of Subtitle C of RCRA. In addition, because the Agency did not finalize its decision, the delisting petition remained on file with the Agency. In today's notice, EPA again proposes to deny the petition solely on technical grounds, because evaluation of information presented in the petition supports a finding that the waste is hazardous.

The Agency has the authority to deny petitions based on the lack of information. The Agency believes that it could have decided to issue a final denial based on the January 17, 1986 proposal because Rock Island has not submitted a complete petition, even after repeated Agency requests for information. Thus, the Agency largely disagrees with Rock Island's comments on the January 17 and October 24, 1986 notices. However, EPA declines to respond to those comments in detail in today's notice, since EPA no longer proposes to rely on the lack of information as a basis for denial of the petition. Rather than denying the petition based on the lack of information, the Agency has chosen instead to propose to deny Rock Island's petition based on a technical evaluation of the information, albeit deficient, that had been received. By so doing, the Agency is suggesting that it does not believe submittal of the requested additional data by Rock Island would lead the Agency to conclude that the petitioned waste is non-hazardous.

In support of its petition, Rock Island submitted (1) descriptions of its waste treatment processes, including schematic diagrams; (2) total constituent data for the EP toxic metals, nickel, antimony, and beryllium; (3) EP leachate analysis results for the EP toxic metals for representative waste samples; (4) OWEP analysis results for the EP toxic metals, nickel, antimony, and beryllium for a single sample; (5) oil and grease data for a single sample; (6) total constituent data for volatile and semi-volatile organic compounds for a single sample; and (7) results from characteristics testing for ignitability, corrosivity, and reactivity.

At Rock Island's refinery, aqueous condensate from storage tanks, process waters, and oil laden waters (*e.g.*, slop oil emulsions) are collected and transported by the refinery's oily water sewer to two API separators in series. (Rock Island's description of its manufacturing processes does not identify in detail what waste streams enter its waste treatment facility.) The API separators use physical means to separate the incoming waste into oil, water, and sludge components. The oil is recovered, and the water is further treated in on-site aeration lagoons. The API separator sludges are pumped into holding tanks before being conveyed to a vacuum filter press. The resultant solid filter press cake is dumped continuously from the filter press into containers. The filter press cake is the subject of today's notice.

To collect representative samples from containers like Rock Island's, petitioners are normally requested to collect a minimum of four composite samples, each comprised of a full-depth core sample collected from one or more of the containers generated over a specific time period (*e.g.*, collect a full-depth core sample from each container of waste generated during a week and composite the samples weekly). See "Test Methods for Evaluating Solid Wastes: Physical/Chemical Methods," U.S. EPA, Office of Solid Waste and Emergency Response, Publication SW–846 (third edition), November 1986, and "Petitions to Delist Hazardous Waste—A Guidance Manual," U.S. EPA, Office of Solid Waste, (EPA/530–SW–85–003), April 1985.

In March and April 1981, Rock Island collected one composite sample of the filter press cake from each of four containers. To construct these composite samples, Rock Island collected a shovel-full of waste from several different locations in one container and combined them; this procedure was repeated for three additional containers. Rock Island used sampling protocol presented in SW–846 Section 3.2–19 to sample its waste. Rock Island considered these samples to be representative of the petitioned waste because the filter press cake is believed to be homogenous due to the frequent mixing of the pre-filtered waste in the API separators and holding tanks. The four 1981 composite samples of the filter press cake were analyzed for extraction procedure (EP) leachate concentrations (*i.e.*, mass of a particular constituent per unit volume of extract) of the EP toxic metals and hexavalent chromium. These four composite samples also were analyzed for total constituent concentrations (*i.e.*, mass of a particular constituent per mass of waste) of chromium and lead, and the characteristics of ignitability, corrosivity, and reactivity. On February 19, 1982, Rock Island submitted EP leachate data for lead and chromium from a sample collected from the vacuum filter press. Rock Island did not provide a detailed description of procedures used to collect this filter press cake sample.

Rock Island also submitted data from one sample collected on March 29, 1984. Rock Island did not provide a detailed description of procedures used to collect this filter press cake sample. Rock

[1] On January 17, 1986, the Agency proposed to deny 23 petitions. The other 22 petitions have been or will be addressed in separate rulemakings and are not discussed in today's notice.

Island analyzed this sample for total constituent and Oily Waste EP (OWEP) leachate concentrations of the EP toxic metals, nickel, antimony, and beryllium. This sample was also analyzed for total constituent concentrations of volatile and semi-volatile organic compounds and total oil and grease content.

3. Agency Analysis

Rock Island used SW-846 methods to quantify the total constituent concentrations of lead and chromium, and procedures listed in 40 CFR Part 261, Appendix II to quantify the leachable concentrations of the EP toxic metals in the 1981 composite samples. Rock Island used SW-846 Method 1330 (the OWEP methodology) to quantify the leachable concentrations of the EP toxic metals, nickel, antimony, and beryllium in the 1984 sample. Rock Island used atomic absorption techniques to quantify the total constituent concentrations of the EP toxic metals, nickel, antimony, and beryllium in the 1984 sample. Table 1 presents the maximum reported total constituent and leachable concentrations of the EP toxic metals, nickel, antimony, and beryllium in the filter press cake samples. As noted in Table 1, the standard EP procedure yielded higher leachable concentrations for many of the EP toxic metals than the OWEP. The Agency believes that it is appropriate to use standard EP data, as well as OWEP data, in the evaluation of Rock Island's petitioned waste for two reasons. First a denial decision based, in part, on standard EP data is conservative because OWEP data are a more stringent measure of constituent concentrations that may be mobilized from a waste (*i.e.*, OWEP concentrations are typically higher than EP leachate concentrations). Second, the Agency believes that the five samples analyzed using the standard EP procedure are more representative of constituent variability than the single sample analyzed using the OWEP (*i.e.*, constituent variability in a waste cannot be distinguished from analytical data for a single sample).

TABLE 1.—MAXIMUM TOTAL CONSTITUENT AND OWEP LEACHATE CONCENTRATIONS (PPM) FILTER PRESS CAKE

Constituents	Total Constituent Analyses	Leachate Analyses [1]
Antimony	39	0.05
Arsenic	0.26	[2] 0.02
Barium	26	[2] 5.2
Beryllium	0.2	0.01
Cadmium	1	0.03
Chromium	3,062	[2] 1.18
Lead	362	[2] 0.4
Mercury	<0.01	<0.0005
Nickel	69	0.11
Selenium	<2.5	[2] 0.02
Silver	<0.25	[2] 0.02

<: Denotes that the constituent was not detected at the detection limit specified in the table.
[1] Results reported are for samples analyzed using SW-846 Method 1330 (OWEP) unless otherwise noted.
[2] Results obtained using SW-846 Method 1310 (standard EP).

The detection limits in Table 1 represent the lowest concentrations quantifiable by Rock Island, when using the appropriate analytical methods to analyze the petitioned waste. [Detection limits may vary according to the waste and waste matrix being analyzed, *i.e.*, the "cleanliness" of waste matrices varies and "dirty" waste matrices may cause interferences, thus raising the detection limits.]

Normally, petitioners are required the oil and grease content of their waste in order to determine if the EP procedure has to be modified in accordance with the Oily Waste EP (OWEP) methodology. The OWEP is used to determine the leachability of toxic constituents from petitioned wastes if the oil and grease content of the waste exceeds one percent. Wastes having more than one percent total oil and grease either may have significant concentrations of constituents of concern in the oil phase which may not be assessed using the standard EP leachate procedure, or the concentration of oil and grease may be sufficient to coat the solid phase of the sample and interfere with the leaching of metals from the sample. (See SW-846 Method 1330.)

Rock Island used an unspecified liquid extraction technique to determine that the oil and grease level of their single 1984 sample was 14 percent. Although the Agency normally requests oil and grease data for a minimum of four representative samples using an EPA approved method, such as SW-846 Method 9071, the Agency is confident that Rock Island should have employed the OWEP methodology based on (1) the high level of oil and grease content reported for the 1984 sample, (2) the nature of Rock Island's waste, and (3) the results of the Agency's spot-check visit [discussed later in this notice]. However, as stated previously, Rock Island provided standard EP data for its four 1981 composite samples and only provided OWEP data for its one 1984 sample. The Agency, on numerous occasions, requested Rock Island to re-analyze its waste using the OWEP methodology. Rock Island did not respond to this request. The Agency did not pursue its request for this information because there was sufficient basis to propose denial of the petition without this information.

On the basis of test results provided by Rock Island, pursuant to 40 CFR 260.22, none of the samples analyzed exhibited the characteristics of ignitability, corrosivity, or reactivity. See 40 CFR 261.21, 261.22, and 261.23, respectively.

Rock Island used GC/MS methods similar to SW-846 Methods 8240 and 8270 to quantify, respectively, volatile and semi-volatile hazardous organic constituents concentrations in the filter press cake. A description of the methods used, and the compounds analyzed for, are presented in the public docket. Table 2 presents the reported concentrations for hazardous organics detected in the petitioned waste.

TABLE 2.—TOTAL CONSTITUENT ANALYSES (PPM) FILTER PRESS CAKE

Constituents	Total constituent concentrations
Anthracene	0.070
Benzene	11
Chrysene	0.12
Ethyl benzene	75
Fluoranthene	0.38
Fluorene	0.13
Naphthalene	1.7
Phenanthrene	0.87
Pyrene	0.08
Toluene	110

Rock Island submitted a signed certification stating that approximately 1,032 cubic yards of filter press cake are generated annually. The Agency reviews a petitioner's estimates and, on occasion, has requested a petitioner to re-evaluate estimate waste volume. EPA accepts Rock Island's certified estimate of 1,032 cubic yards.

The Agency has initiated a spot-check sampling and analysis program to verify the representative nature of the data for some percentage of delisting petitions. As part of this program, the Agency conducted a spot-check sampling visit to Rock Island. The results of this visit are discussed later in this notice.

4. Agency Evaluation

The Agency considered the appropriateness of alternative disposal scenarios for the filter press cake and decided that a landfill scenario is the most reasonable, worst-case scenario for this waste. Under a landfill disposal scenario, the major exposure route of concern for any hazardous constituents would be ingestion of contaminated ground water. The Agency evaluated Rock Island's petitioned filter press cake using its vertical and horizontal spread (VHS) landfill model which predicts the potential for ground-water contamination from wastes that are landfilled. See 50 FR 7882 (February 26, 1985), 50 FR 48896 (November 27, 1985), and the RCRA public docket for these notices for a detailed description of the VHS model and its parameters. This modeling approach, which includes a ground-water transport scenario, was used with conservative, generic parameters to predict reasonable worst-case contaminant levels in ground water at a hypothetical receptor well (*i.e.*, the model estimates the ability of an aquifer to dilute the toxicant from a specific volume of waste). In addition, the Agency used its Organic Leachate Model (OLM) to estimate the leachable portion of the organic constituents in the petitioned waste. See 50 FR 48953 (November 27, 1985), 51 FR 41084 (November 13, 1986), and the RCRA public docket for these notices for a detailed description of the OLM and its parameters. The results of the OLM analysis were used in conjunction with the VHS model to estimate the potential impact of the organic constituents on the underlying aquifer. The Agency requests comments on the use of the OLM and VHS model as applied to the evaluation of Rock Island's waste.

Furthermore, despite the fact that the OWEP is normally used to evaluate the mobility of the inorganic constituents when oil and grease content exceeds one percent, the Agency believes that the modeling evaluation for Rock Island's petitioned waste (using EP data) is valid because OWEP concentrations are typically higher than EP leachate concentrations. A denial decision based, in part, on standard EP data is conservative because OWEP data are a more stringent measure of constituent concentrations that may be mobilized from a waste.

The Agency used the VHS model to evaluate the mobility of the hazardous inorganic constituents detected in the EP extract of Rock Island's filter press cake. The Agency's evaluation, using Rock Island's estimate of 1,032 cubic yards per year and the maximum reported EP or OWEP leachate concentrations, generated the compliance-point concentrations shown in Table 3. The Agency did not evaluate the mobility of mercury from Rock Island's filter press cake because it was not detected in the EP extract using the appropriate analytical test method (see Table 1). The Agency believes that it is inappropriate to evaluate non-detectable concentrations of a constituent of concern in its modeling efforts if the non-detectable value was obtained using the appropriate analytical method. If a constituent cannot be detected (when using the appropriate analytical method), the Agency assumes that the constituent is not present and therefore does not present a threat to either human health or the environment.

TABLE 3.—VHS MODEL: COMPLIANCE-POINT CONCENTRATIONS (PPM) FILTER PRESS CAKE

Constituents	Compliance-Point concentrations	Levels of regulatory concern [1]
Antimony	0.003	0.01
Arsenic	.001	.05
Barium	.34	1.0
Beryllium	.0006	.2
Cadmium	.002	.01
Chromium	.076	.05
Lead	.026	.05
Nickel	.007	.5
Selenium	.001	.01
Silver	.001	.05

[1] See "Docket Report on Health-based Regulatory Levels and Solubilities Used in the Evaluation of Delisting Petitions," June 8, 1988, located in the RCRA public docket.

The filter press cake exhibited chromium concentrations at the compliance point above the health-based level used in delisting decision-making. The filter press cake exhibited antimony, arsenic, barium, beryllium, cadmium, lead, nickel, selenium, and silver levels at the compliance point below the delisting health-based level for each constituent. Rock Island did not quantify the concentration of total cyanide or sulfide in the petitioned waste. Therefore, the Agency could not determine if the concentrations of reactive cyanide and sulfide would be below the Agency's interim standards of 250 and 500 ppm, respectively. See "Interim Agency Thresholds for Toxic Gas Generation," July 12, 1985, Internal Agency Memorandum in the RCRA public docket. Also because total constituent concentrations of cyanide and sulfide in the filter press cake were not provided, the Agency was unable to completely determine whether the waste exhibited the characteristic of reactivity. See 40 CFR 261.23.

On the basis of test results submitted by the petitioner, pursuant to 40 CFR 260.22, the Agency concludes that the filter press cake does not exhibit either of the characteristics of ignitability or corrosivity. See 40 CFR 261.21 and 261.22, respectively.

The Agency also evaluated the mobility of the hazardous organic constituents detected in Rock Island's waste using the OLM/VHS model. The Agency used the OLM to predict the leachable concentration of each of the ten organic constituents presented in Table 2. The resulting leachable concentrations then were used as inputs in the VHS model in order to assess the potential impacts of the constituents upon the ground water. The calculated compliance-point concentration for the ten organic constituents are presented in Table 4.

TABLE 4—OLM/VHS MODEL: COMPLIANCE-POINT CONCENTRATIONS (PPM) FILTER PRESS CAKE

Constituents	Compliance-Point concentrations	Levels of regulatory concern [1]
Anthracene	0.000007	0.002
Benzene	.011	.005
Chrysene	.000003	.0002
Ethyl benzene	.02	4.
Fluoranthene	.00004	.2
Fluorene	.00004	.002
Naphthalene	.0007	14
Phenanthrene	.0001	.002
Pyrene	.00001	4
Toluene	.03	10

[1] See "Docket Report on Health-based Regulatory Levels and Solubilities Used in the Evaluation of the Delisting Petitions," June 8, 1988, located in the RCRA public docket.

The filter press cake exhibited benzene concentrations at the compliance point above the health-based level used in delisting decision-making. The filter press cake exhibited anthracene, chrysene, ethyl benzene, fluoranthene, fluorene, naphthalene, phenanthrene, pyrene, and toluene at the compliance point below the delisting health-based level for each constituent.

The Agency believes that other hazardous constituents could be present in Rock Island's filter press cake at levels of concern. As previously stated, the Agency requested, on numerous occasions, that Rock Island submit data on a minimum of four samples analyzed for leachable concentrations of the EP toxic metals, nickel cyanide, and other metals using the OWEP methodology, and also data on total constituent concentrations of inorganic and organic compounds potentially present in wastes like Rock Island's. To date, the

Agency has not received information believed necessary to fully characterize the petitioned waste. However, the Agency does not consider it necessary for Rock Island to complete its petition because there is sufficient basis to propose denial of the petition without this information.

On June 24, 1985, staff under contract to the Agency conducted a site visit to Rock Island as part of the Agency's spot-check sampling and analysis program. Eight samples were collected from various locations in Rock Island's waste treatment system. Rock Island's vacuum filter press was not in operation on the day of the spot-check visit and the dumpster containing the filter press cake was absent. Nevertheless, one grab sample of the waste was obtained from the disposal chute leaving the filter press. This grab sample was analyzed, using standard EPA methods, for total oil and grease content; total constituent concentrations of the EP toxic metals, nickel, cyanide, sulfide, antimony, and beryllium; and OWEP leachate concentrations of the EP toxic metals, nickel, cyanide, and beryllium. (The oil and grease level of this sample was determined to be 19.5 percent; therefore, the OWEP methodology was followed.) The sample was also analyzed for total volatile and semi-volatile organic compounds using SW-846 Methods 8240, 8270, and 8080, respectively. Analytical difficulties were encountered during analysis of this sample for inorganic constituents and semi-volatile compounds. However, analysis results for volatile organic compounds (SW-846 Method 8240) are considered valid, and the Agency considered these data in the review of Rock Island's petition. (See the RCRA public docket for today's notice for more detail.) Although this grab sample is not considered to be fully representative of the petitioned waste because the disposal chute contained only residual filter press cake, the Agency believes that this sample, to some extent, represents a portion of Rock Island's petitioned waste.[2] Table 5 presents the reported concentrations of hazardous volatile organic constituents detected in the spotcheck sample for which health-based levels exist.

[2] The remaining seven spot-check samples were collected from one of the API separators, one of the holding tanks, the suction pit, and the aeration lagoon. These samples were not considered in the evaluation of Rock Island's petition because they did not represent the composition of the petitioned filter press cake (e.g., samples were collected in various stages of the treatment process prior to filtering).

TABLE 5.—TOTAL CONSTITUENT ANALYSES (PPM) SPOT-CHECK SMAPLE FILTER PRESS CAKE

Constituents	Total constituent concentrations
Ethyl benzene	33
Methylene chloride	15
Toluene	36
Xylene	250

The Agency evaluated the mobility of the hazardous volatile organic constituents detected in the spot-check sample using the OLM/VHS model. The Agency used the OLM to predict the leachable concentration of each of the four organic constituents presented in Table 5. The resulting leachable concentrations then were used as inputs in the VHS model in order to assess the potential impacts of the constituents upon the ground water. The calculated compliance-point concentrations for the four organic constituents are presented in Table 6.

TABLE 6.—OLM/VHS MODEL: COMPLIANCE-POINT CONCENTRATIONS (PPM) SPOT-CHECK SAMPLE FILTER PRESS CAKE

Constituents	Compliance-point concentrations	Levels of regulatory concern[1]
Ethyl benzene	0.009	4
Methylene chloride	.034	0.0047
Toluene	.02	10
Xylene	.04	70

[1] See "Docket Report on Health-based Regulatory Levels and Solubilities Used in the Evaluation of the Delisting Petitions," June 8, 1988, located in the RCRA public docket.

The filter press cake exhibited methylene chloride concentrations above the health-based level used in delisting decision-making. As stated previously, this spot-check sample is not fully representative of the petitioned waste. However, the Agency believes that these data do indicate that other hazardous organic constituents may be present in the petitioned waste at significant (*i.e.*, hazardous) levels.

5. Conclusion

The Agency believes that Rock Island has not demonstrated that its petitoned waste is not hazardous. Specifically, the data provided by Rock Island indicate that the filter press cake exhibits significant concentrations of leachable chromium and benzene. In addition, as a result of the 1985 spot-check visit, the Agency strongly suspects that additonal hazardous constitutents are present in the waste at levels of regulatory concern. Although Rock Island was requested to provide data, it has not provided sufficient information to satisfy these concerns. Thus, the Agency also considers the petition to be incomplete. The Agency proposes to deny Rock Island Refining Corporation's petition for exclusion of its filter press cake generated from the treatment of sludges described in its petition as EPA Hazardous Waste Nos. K049, K050, and K051 at its Indianapolis, Indiana facility. This waste continues to be subject to regulation under 40 CFR Parts 260 through 268 and the permitting standards of 40 CFR Part 270.

III. Effective Date

This rule, if promulgated, will become effective immediately. The Hazardous and Solid Waste Amendments of 1984 amended Section 3010 of RCRA to allow rules to become effective in less than six months when the regulated community does not need the six-month period to come into compliance. That is the case here, because this rule, if promulgated, would not change the existing requirements for persons generating hazardous wastes. This facility has been obligated to manage its waste as hazardous before and during the Agency's review of its petition (except for the period during which the temporary exclusion was in effect). Because a six-month deadline is not necessary to achieve the purpose of Section 3010, EPA believes that this denial should be effective immediately upon promulgation. These reasons also provide a basis for making this rule effective immediately, upon promulgation, under the Administrative Procedures Act, pursuant to 5 USC 553(d).

IV. Regulatory Impact

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. The proposed denial of this petition, if promulgated, would not impose an economic burden on this facility because prior to submission, during initial review of the petition, and again after November 8, 1986 (when its temporary exclusion ceased to be in effect), this facility should have handled its waste as hazardous. The denial of the petition means that petitioner is to continue managing its waste as hazardous in the manner in which it has been doing, economically, and otherwise. There is no additional economic impact, therefore, due to

today's rule. This proposal is not a major regulation, therefore, no Regulatory Impact Analysis is required.

V. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 USC 601–612, whenever an agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis which describes the impact of the rule on small entities (*i.e.*, small businesses, small organizations, and small governmental jurisidictions). The Administrator may certify, however, that the rule will not have a significant economic impact on a substantial number of small entitites.

This amendment, if promulgated, will not have an adverse economic impact on small entities. The facility included in this notice may be considered a small entity, however, this rule only affects one facility in one industrial segment. The overall economic impact, therefore, on small entities is small. Accordingly, I hereby certify that this proposed regulation, if promulgated, will not have a significant economic impact on a substantial number of small entities. This regulation, therefore, does not require a regulatory flexibility analysis.

VI. Paperwork Reduction Act

Information collection and record-keeping requirements associated with this proposed rule 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, 44 USC § 3501 *et seq.*) and have been assigned OMB Control Number 2050–0053.

VII. List of Subjects in 40 CFR Part 261

Hazardous Materials, Waste Treatment and Disposal, Recycling.

Authority: Sec. 3001 RCRA, 42 USC 6921.

Dated: June 2, 1989.

Jonathan Z. Cannon,

Acting Assistant Administrator, Office of Solid Waste and Emergency Response.

[FR Doc. 89–14081 Filed 6–13–89; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Parts 80 and 83

RIN 3067–AB33

Federal Crime Insurance Program

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Proposed rule.

SUMMARY: These revisions to the Federal Crime Insurance Program are proposed to achieve the following: revise the basic classification and rating structure of the commercial rating plan; exclude coverage on vacant residential property and provide greater clarity to existing policy provisions under both the residential and commercial policies by providing more precise policy terminology.

DATES: All comments received on or before July 15, 1989 will be considered before final action is taken on the Proposed Rule.

ADDRESSES: Persons wishing to comment should submit comments in duplicate to the Rules Docket Clerk, Office of the General Counsel, Federal Emergency Management Agency, Washington, DC 20472, Telephone (202) 646–4107.

FOR FURTHER INFORMATION CONTACT: Robert J. DeHenzel, Project Officer, Federal Emergency Management Agency, Federal Insurance Administration, Donohoe Building, 500 C Street SW., Room 433, Washington, DC 20472, Telephone number (202) 646–3440.

SUPPLEMENTARY INFORMATION: These amendments to the Federal Crime Insurance Program (FCIP) Regulations are the result of the experience gained over the past eighteen years the Program has been in operation. The Federal Insurance Administration (FIA) desires to improve service to policyholders and to more closely align the Program with the underwriting and rating methods used by the private insurance sector, while reducing the general taxpayers' burden with more equitable sharing of the cost of crime losses between the general taxpayers and the program insureds.

In 1985, the Federal Insurance Administration implemented a new commercial rating plan for the Federal Crime Insurance Program. This new plan had four major objectives: (1) That the plan be simple to apply, (2) that the plan be similar to the Insurance Services Office (ISO) rating plan in order for the results to be easily transferable to the voluntary market, (3) that the plan eliminate as many internal subsidies as possible, and (4) that the plan offer loss prevention incentives to mitigate losses. Three years have elapsed since the plan was implemented. Therefore, it was desirable for the FIA to conduct a classification rate level study in an actuarially sound manner to verify that the model rating plan was correct and permit the commercial crime rates to move to their indicated rate level based on actual experience. The study conducted for the FIA by its servicing carrier, National Con Serv, Inc. and its actuary, Tillinghast, indicates that the Insurance Services Office (ISO) advisory rates have increased five times since 1985 and a substantial rate increase is appropriate for several of the FCIP business classifications. The Administration however proposes to balance the rate increase to no more than 5% for each business class. This action is in keeping with Congressional intent to limit an FCIP rate increase in 1989 to 5%.

Certain terminology in the residential and commercial policy forms could benefit from further definition and these proposed regulations bring greater clarity to the policy provisions by clarifying the policy exclusions relative to loss to business property, burglary loss from a motor vehicle and loss if a property is vacant. The FIA also proposes to limit recovery under the commercial policy to the amount of an advance or loan extended by an insured as a pledge or collateral and to specifically exclude coverage when an alarm system is found not to have been maintained in working order at the time of loss, for reasons within the control of the insured.

FEMA has determined that an environmental impact statement is not needed for this proposed rule. A copy of the finding of no significant impact and an environmental assessment is available from the Rules Docket Clerk.

FEMA has also determined that this proposed rule will not have a significant economic impact on a substantial number of small entities, and so has not conducted a regulatory flexibility analysis.

This proposed rule is not a "major rule" as defined in Executive Order 12291, dated February 27, 1981, and hence no regulatory analysis has been prepared. Finally FEMA has determined that this rule does not contain a collection of information requirements as described in section 3504(b) of the Paperwork Reduction Act.

List of Subject in 44 CFR Parts, 80, 83

Federal crime insurance program.

Accordingly, 44 CFR Part 80, and 83 are proposed to be amended as follows:

Part 80—Description of Program and Offer to Agents

1. The authority citation for Part 80 continues to read as follows:

Authority: 12 U.S.C. 1749bbb et seq. Reorganization Plan No. 3 of 1978; EO 12127

2. Section 80.1(a) is amended by adding a new definition under paragraph (24) to read as follows:

§ 80.1 Definitions.

(24) "Vacant Property" means a property "without contents", that is, a premises from which all personal property has been removed.

§ 80.5 [Amended]

3. Section 80.5 paragraph (b)(7) is revised to read as follows:

(b) * * *

(7) Deposit the applicant's premium check in a special bank account. If no policy is issued, refund the amount of the premium to the applicant.

PART 83—COVERAGE, RATES, AND PRESCRIBED POLICY FORMS

1. The authority citation for Part 83 continues to read as follows:

Authority: 12 U.S.C. 1749bbb et seq. Reorganization Plan No. 3 of 1978: EO 12127.

Subpart A—Residential Crime Insurance Coverage

§ 83.5 [Amended]

2. Section 83.5(a) is amended by revising portions of the Residential Crime Insurance Policy Form in the following respects:

(a) Subparagraph entitled "Exclusions" is amended by revising Exclusion (d) and adding two additional exclusions (f) and (g).

This Policy does not apply:

(d) To loss of property pertaining to a business, trade, profession or occupation of an insured

* * * * *

(f) To any burglary loss from a motor vehicle.

(g) To loss while the property is vacant.

Subpart B—Commercial Crime Insurance Coverage

3. Section 83.25 paragraph (e) is revised to read as follows:

§ 83.25 Commercial crime insurance rates.

* * * * *

(e) The following tables shall be used to determine rates for commercial risks.

FEDERAL CRIME INSURANCE PROGRAM—COMMERCIAL CRIME INSURANCE RATES, SEPTEMBER 1989

[Annual Premiums]

Amount of insurance	Gross Receipts											
	Less than $100,000		$100,000 to $199,999		$200,000 to $299,999		$300,000 to $499,999		$500,000 to $999,999		$1,000,000 or greater	
	Option		Option		Option		Option		Option		Option	
	1	2	1	2	1	2	1	2	1	2	1	2
Class 1:												
$1,000	86	118	130	176	130	176	172	234	214	290	342	464
$2,000	164	210	246	312	246	312	326	416	406	520	648	834
$3,000	240	302	360	452	360	452	478	602	598	752	958	1,202
$4,000	310	384	468	576	468	576	624	766	780	958	1,244	1,530
$5,000	368	434	554	654	554	654	738	870	920	1,086	1,472	1,734
$6,000	388	476	582	714	582	714	778	954	970	1,188	1,550	1,900
$7,000	404	508	604	760	604	760	806	1,014	1,006	1,266	1,610	2,024
$8,000	420	538	626	806	626	806	836	1,074	1,044	1,340	1,670	2,148
$9,000	424	548	634	824	634	824	844	1,096	1,054	1,368	1,686	2,188
$10,000	432	570	648	852	648	852	866	1,136	1,078	1,418	1,726	2,268
$11,000	456	620	686	930	686	930	914	1,240	1,140	1,548	1,824	2,476
$12,000	476	662	714	994	714	994	954	1,320	1,188	1,648	1,902	2,640
$13,000	488	680	730	1,022	730	1,022	972	1,362	1,214	1,702	1,942	2,722
$14,000	492	694	738	1,040	738	1,040	980	1,382	1,226	1,726	1,964	2,764
$15,000	496	702	746	1,054	746	1,054	994	1,402	1,240	1,754	1,980	2,806
Class 2:												
$1,000	102	148	158	220	158	220	208	294	258	364	412	582
$2,000	196	264	294	394	294	394	390	526	488	656	780	1,048
$3,000	288	380	430	570	430	570	574	758	714	946	1,144	1,512
$4,000	372	484	558	724	558	724	744	966	928	1,204	1,486	1,928
$5,000	438	546	660	824	660	824	878	1,094	1,096	1,366	1,754	2,186
$6,000	464	600	698	898	698	898	926	1,198	1,158	1,496	1,852	2,392
$7,000	484	636	722	958	722	958	964	1,274	1,204	1,592	1,926	2,548
$8,000	500	676	752	1,016	752	1,016	1,002	1,352	1,250	1,688	2,000	2,700
$9,000	508	690	760	1,034	760	1,034	1,014	1,378	1,266	1,720	2,024	2,754
$10,000	520	716	782	1,074	782	1,074	1,040	1,430	1,296	1,788	2,074	2,858
$11,000	552	782	828	1,172	828	1,172	1,100	1,558	1,374	1,946	2,198	3,116
$12,000	576	832	864	1,248	864	1,248	1,150	1,664	1,436	2,076	2,298	3,322
$13,000	588	856	882	1,288	882	1,288	1,176	1,716	1,466	2,142	2,346	3,426
$14,000	592	872	890	1,306	890	1,306	1,186	1,738	1,482	2,174	2,370	3,478
$15,000	600	884	898	1,326	898	1,326	1,200	1,766	1,498	2,206	2,396	3,528
Class 3:												
$1,000	118	156	176	228	176	228	234	304	290	380	464	606
$2,000	218	274	328	412	328	412	436	546	544	680	872	1,092
$3,000	322	394	484	592	484	592	642	790	800	984	1,282	1,576
$4,000	416	502	626	754	626	754	834	1,006	1,040	1,254	1,664	2,008
$5,000	492	572	738	854	738	854	980	1,140	1,224	1,422	1,958	2,276
$6,000	518	624	780	936	780	936	1,038	1,246	1,294	1,556	2,070	2,488
$7,000	540	664	810	998	810	998	1,082	1,328	1,348	1,660	2,156	2,650
$8,000	562	706	842	1,056	842	1,056	1,122	1,410	1,400	1,758	2,240	2,814
$9,000	570	718	852	1,078	852	1,078	1,136	1,436	1,418	1,794	2,268	2,866
$10,000	582	746	874	1,118	874	1,118	1,164	1,488	1,454	1,858	2,326	2,974
$11,000	618	810	926	1,220	926	1,220	1,234	1,624	1,542	2,026	2,468	3,244
$12,000	646	868	970	1,298	970	1,298	1,292	1,730	1,612	2,160	2,580	3,456
$13,000	660	892	990	1,340	990	1,340	1,318	1,782	1,646	2,230	2,638	3,566

FEDERAL CRIME INSURANCE PROGRAM—COMMERCIAL CRIME INSURANCE RATES, SEPTEMBER 1989—Continued

[Annual Premiums]

Amount of insurance	Gross Receipts											
	Less than $100,000		$100,000 to $199,999		$200,000 to $299,999		$300,000 to $499,999		$500,000 to $999,999		$1,000,000 or greater	
	Option		Option		Option		Option		Option		Option	
	1	2	1	2	1	2	1	2	1	2	1	2
$14,000	668	908	1,002	1,360	1,002	1,360	1,334	1,812	1,666	2,262	2,662	3,620
$15,000	674	920	1,012	1,380	1,012	1,380	1,348	1,840	1,682	2,296	2,692	3,672
Class 4:												
$1,000	130	160	196	238	196	238	260	318	324	394	518	630
$2,000	246	284	368	428	368	428	490	570	612	708	976	1,134
$3,000	360	410	540	618	540	618	718	822	894	1,022	1,434	1,638
$4,000	468	522	700	786	700	786	932	1,046	1,162	1,304	1,860	2,086
$5,000	548	592	826	888	826	888	1,098	1,184	1,370	1,478	2,192	2,364
$6,000	582	648	872	972	872	972	1,162	1,296	1,450	1,620	2,318	2,590
$7,000	604	690	908	1,038	908	1,038	1,208	1,380	1,508	1,722	2,416	2,758
$8,000	628	732	942	1,098	942	1,098	1,258	1,464	1,568	1,828	2,510	2,924
$9,000	636	748	956	1,120	956	1,120	1,272	1,494	1,588	1,862	2,542	2,980
$10,000	654	774	978	1,162	978	1,162	1,304	1,548	1,628	1,932	2,604	3,092
$11,000	694	844	1,040	1,266	1,040	1,266	1,382	1,686	1,726	2,108	2,764	3,370
$12,000	722	898	1,086	1,352	1,086	1,352	1,446	1,800	1,806	2,248	2,890	3,596
$13,000	740	928	1,108	1,394	1,108	1,394	1,478	1,854	1,846	2,318	2,952	3,706
$14,000	748	940	1,122	1,414	1,122	1,414	1,496	1,884	1,864	2,352	2,986	3,762
$15,000	756	958	1,134	1,436	1,134	1,436	1,510	1,912	1,886	2,386	3,016	3,820
Class 5:												
$1,000	124	140	186	212	186	212	248	282	308	348	492	560
$2,000	228	254	346	380	346	380	458	504	572	628	916	1,006
$3,000	336	364	502	546	502	546	670	728	836	908	1,338	1,452
$4,000	432	464	652	696	652	696	866	926	1,078	1,156	1,726	1,848
$5,000	504	526	756	788	756	788	1,008	1,050	1,258	1,310	2,014	2,096
$6,000	538	576	806	864	806	864	1,076	1,148	1,342	1,434	2,150	2,294
$7,000	564	614	846	918	846	918	1,128	1,224	1,408	1,526	2,252	2,442
$8,000	588	648	884	974	884	974	1,178	1,296	1,470	1,620	2,352	2,592
$9,000	598	662	896	994	896	994	1,194	1,324	1,494	1,648	2,388	2,640
$10,000	616	686	924	1,030	924	1,030	1,230	1,372	1,536	1,714	2,458	2,738
$11,000	658	748	988	1,122	988	1,122	1,314	1,496	1,640	1,866	2,628	2,988
$12,000	694	798	1,040	1,198	1,040	1,198	1,382	1,594	1,726	1,990	2,764	3,186
$13,000	710	824	1,062	1,234	1,062	1,234	1,418	1,644	1,768	2,054	2,830	3,286
$14,000	716	836	1,076	1,252	1,076	1,252	1,434	1,670	1,792	2,084	2,864	3,334
$15,000	724	846	1,090	1,270	1,090	1,270	1,452	1,692	1,812	2,114	2,900	3,386
Class 6:												
$1,000	126	126	186	190	186	190	250	252	308	312	496	500
$2,000	232	226	346	340	346	340	460	452	574	564	918	900
$3,000	336	326	502	490	502	490	670	654	836	812	1,338	1,302
$4,000	432	416	648	624	648	624	864	832	1,076	1,038	1,722	1,660
$5,000	500	472	752	708	752	708	1,002	940	1,250	1,176	2,000	1,882
$6,000	538	516	804	774	804	774	1,074	1,030	1,340	1,286	2,144	2,058
$7,000	564	548	846	826	846	826	1,128	1,098	1,408	1,370	2,252	2,192
$8,000	590	582	886	874	886	874	1,182	1,164	1,472	1,454	2,360	2,324
$9,000	600	592	898	890	898	890	1,200	1,186	1,498	1,480	2,394	2,368
$10,000	618	616	926	924	926	924	1,234	1,230	1,542	1,538	2,466	2,460
$11,000	664	670	996	1,008	996	1,008	1,326	1,340	1,654	1,676	2,646	2,680
$12,000	700	716	1,048	1,074	1,048	1,074	1,396	1,430	1,744	1,788	2,788	2,858
$13,000	716	740	1,074	1,106	1,074	1,106	1,430	1,474	1,790	1,842	2,860	2,946
$14,000	724	750	1,088	1,126	1,088	1,126	1,450	1,498	1,810	1,870	2,896	2,992
$15,000	736	760	1,102	1,140	1,102	1,140	1,468	1,518	1,834	1,896	2,934	3,036

Option 1: Burglary only.
Option 2: Robbery only.
Option 3: A combination of coverages under options 1 and 2 in uniform or varying amounts. The premium for option 3 is the sum of the rates for amounts of coverage selected under options 1 and 2.
Discounts on these rates are afforded for businesses with alarm systems/safes. A discount of 10% is given for policies with option 3.

§ 83.26 [Amended]

5. Section 83.26(b) is amended by revising portions of the "Commercial Crime Insurance Policy" in the following respects:

(a) Under the heading entitled "Exclusions", paragraph (f) is amended to read as follows:

(f) To any loss if the premises are not equipped with the protective devices required as a condition of eligibility for the purchase of this policy or if the insured has failed to take reasonable action to maintain the protective devices in working order in accordance with the regulations of the Federal Insurance Administration, as published at the time of the inception of the current term of the policy in Subchapter B, Part 80 et seq., Chapter I, Title 44, Code of Federal Regulations.

(b) Under the heading "Conditions" Section 5 entitled "Limits of Liability; settlement options", the second paragraph is revised to read as follows:

The limit of the insurer's liability for loss shall not exceed the applicable limit of insurance stated in the Application, nor what it would cost at the time of loss to repair or replace the property with other property of like kind and quality, nor as respects securities the actual cash value thereof at the close of business on the business day next preceding the day on which the loss was discovered, nor as respects other property to

the actual cash value thereof at the time of loss: provided, however, that the actual cash value of such other property held or originally acquired by the insured as a pledge, or as collateral for an advance or a loan, shall be deemed not to exceed the value of the property as determined and recorded by the insured when making the advance or loan, nor, in the absence of such record, the unpaid portion of the advance or loan plus accrued interest thereon at legal rates.

These Amendments issued under 12 U.S.C. 1749bbb–17

Harold T. Duryee,

Federal Insurance Administrator.

[FR Doc. 89–12732 Filed 6–13–89; 8:45 am]

BILLING CODE 6718-21-M

Notices

Federal Register
Vol. 54, No. 113
Wednesday, June 14, 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.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 89-088]

U.S. Veterinary Biological Product and Establishment Licenses Issued, Suspended, Revoked, or Terminated

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: The purpose of this notice is to advise the public of the issuance, suspension, revocation, or termination of veterinary biological product and establishment licenses by the Animal and Plant Health Inspection Service during the month of April 1989. These actions are taken in accordance with the regulations issued pursuant to the Virus-Serum-Toxin Act.

FOR FURTHER INFORMATION CONTACT: Joan Montgomery, Program Assistant, Veterinary Biologics, Biotechnology, Biologics, and Environmental Protection, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 838, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-6332.

SUPPLEMENTARY INFORMATION: The regulations in 9 CFR Part 102, "Licenses For Biological Products," require that every person who prepares certain biological products that are subject to the Virus-Serum-Toxin Act (21 U.S.C. 151 *et seq.*) shall hold an unexpired, unsuspended, and unrevoked U.S. Veterinary Biological Product License. The regulations set forth the procedures for applying for a license, the criteria for determining whether a license shall be issued, and the form of the license.

Pursuant to these regulations, the Animal and Plant Health Inspection Service (APHIS) issued the following U.S. Veterinary Biological Product Licenses during the month of April 1989:

Product license code	Date issued	Product	Establishment	Establishment license No.
12M5.40	04-14-89	Bursal disease-Newcastle-bronchitis-Reovirus vaccine	Maine Biological Laboratories, Inc.	240
1751.00	04-24-89	Mycoplasma gallispeticum vaccine, live culture	....do	240
1761.18	04-24-89	Newcastle-bronchitis vaccine, B_1 type, B_1 strain, Mass. type, live virus.	Intervet America Inc.	286
1775.10	04-07-89	Newcastle-bronchitis, vaccine, killed virus	Schering Corp.	165A
17E1.20	04-17-89	Hemorrhagic enteritis vaccine, live virus	....do	165A
1895.20	04-07-89	Pseudorabies vaccine, killed virus	Bio Vac Laboratories, Inc.	307
18C5.00	04-24-89	Pacheco's disease vaccine, killed virus	Maine Biological Laboratories, Inc.	240
1951.02	04-07-89	Tenosynovitis vaccine, modified live virus	Schering Corp.	165A
5850.00	04-19-89	Staphylococcus aureus antibody test kit	ProScience Corp.	372
7080.00	04-07-89	Bordetella bronchiseptica-pasteurella multocide bacterin-toxoid	Schering Corp.	165A
7410.B0	04-26-89	Clostridium chauvoei-septicum-novyi-sordellii-perfringens types C & D bacterin-toxoid.	BallistiVet, Inc.	331
7423.00	04-27-89	Clostridium chauvoei-septicum-novyi-sordellii-perfringens types C & D-haemophilus somnus bacterin-toxoid.	Coopers Animal Health, Inc.	107
A621.00	04-20-89	Fowl pox virus, live virus, for further manufacture	Maine Biological Laboratories, Inc.	240
C602.00	04-20-89	Normal serum, equine origin, for further manufacture	Central Biomedia, Inc.	328
E850.00	04-24-89	Staphylococcus aureau antibody test kit, antigen and antibody components, for further manufacture.	VMRD, Inc.	332
G423.00	04-27-89	Clostridium chauvoei-septicum-novyi-sordellii-perfringens types C & D-haemophilus somnus bacterin-toxoid, for further manufacture.	Coopers Animal Health, Inc.	107

The regulations in 9 CFR Part 102 also require that each person who prepares biological products that are subject to the Virus-Serum-Toxin Act (21 U.S.C. 151 et seq.) shall hold a U.S. Veterinary Biologics Establishment License. The regulations set forth the procedures for applying for a license, the criteria for determining whether a license shall be isssued, and the form of the license.

Pursuant to these regulations, APHIS issued the following U.S. Veterinary Biologics Establishment License during the month of April 1989:

Establishment	Establishment license No.	Date issued
ProScience Corp.	372	04-19-89

The regulations in 9 CFR Parts 102 and 105 also contain provisions concerning the suspension, revocation, and termination of U.S. Veterinary Biological Product Licenses and U.S. Veterinary Biologics Establishment Licenses. Pursuant to these regulations, APHIS terminated the following U.S. Veterinary Biological Product License during the month of April 1989:

Product license code	Date terminated	Product	Establishment	Establishment license No.
2648.40	04-19-89	Escherichia coli bacterin	Beecham Laboratories	225

Done in Washington, DC, this 8th day of June 1989.

James W. Glosser,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 89-14107 Filed 6-13-89; 8:45 am]

BILLING CODE 3410-34-M

Soil Conservation Service

Toa Vaca Lake Watershed, Puerto Rico

AGENCY: Soil Conservation Service.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council of Environmental Quality Guidelines (40 CFR Part 1,500); and the Soil Conservation Service Guidelines (7 CFR Part 65), the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Toa Vaca Lake Watershed, Puerto Rico.

FOR FURTHER INFORMATION CONTACT: Humberto Hernández, Director, Caribbean Area, Soil Conservation Service, GPO Box 4868, San Juan, PR 00936, Telephone (809) 766-5206.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicated that the project will not cause significant local, regional, or national impacts of the environment. As a result of these findings, Humberto Hernández, Director, Caribbean Area, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project concerns a plan for watershed protection. The planned works of improvement include accelerated technical and financial assistance to apply land treatment measures on 3,800 acres of cropland and native pasture.

A copy of the Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various federal, commonwealth, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment is on file and may be reviewed by contacting Humberto Hernández.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**.

Humberto Hernández,

Director, Caribbean Area.

Date: May 26, 1989.

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 19.904—Watershed Protection and Flood Prevention—and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with state and local officials.)

[FR Doc. 89-13840 Filed 6-13-89; 8:45 am]

BILLING CODE 3410-16-M

DEPARTMENT OF COMMERCE

International Trade Administration

[A-475-802]

Antidumping Duty Order of Sales at Less Than Fair Value; Industrial Belts and Components and Parts Thereof, Whether Cured or Uncured, From Italy

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: In its investigation, the U.S. Department of Commerce determined that industrial belts and components and parts thereof, whether cured or uncured, from Italy were being sold at less than fair value. In a separate investigation, the U.S. International Trade Commission (ITC) determined that a U.S. industry is materially injured or threatened with material injury by reason of imports of V-belts and synchronous industrial belts from Italy.

The ITC also determined that an industry in the United States is not materially injured or threatened with material injury, and the establishment of an industry in the United States is not materially retarded, by reason of imports of other industrial belts and components and parts thereof, whether cured or uncured, from Italy.

As a result, pursuant to section 735(c)(2)(B) of the Tariff Act of 1930, as amended (19 U.S.C. 1673d(c)(2)(B))(the Act), estimated antidumping duties deposited on entries of industrial belts except for V-belts and synchronous belts and components and parts thereof, whether cured or uncured from Italy shall be refunded and the appropriate bonds or other security released.

In addition, on April 11, 1989, the Department found that critical circumstances existed with respect to industrial belts and components and parts thereof, whether cured or uncured, from Italy. However, on May 31, 1989, the ITC notified the Department that critical circumstances do not exist with respect to any imports from Italy. As a result of the ITC's negative critical circumstances determination, pursuant to section 735(c)(3)(B) of the Act, the U.S. Customs Service will refund all cash deposits and release all bonds collected on industrial belts and components and parts thereof, whether cured or uncured, from Italy entered or withdrawn from warehouse, for consumption on or after November 3, 1988 and before February 1, 1989.

Based on the affirmative findings of the Department and the ITC, all unliquidated entries of V-belts and synchronous industrial belts from Italy, as described in this notice, which were entered, or withdrawn from warehouse, for consumption on or after February 1, 1989, the date on which the Department published its preliminary affirmative antidumping duty determinations in the **Federal Register**, will be liable for the possible assessment of antidumping duties.

A cash deposit of estimated antidumping duties must be made on all entries of V-belts and synchronous industrial belts from Italy entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this antidumping duty order in the **Federal Register**.

EFFECTIVE DATE: June 14, 1989.

FOR FURTHER INFORMATION CONTACT: Louis Apple or Mark Wells, Office of Antidumping Investigations, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377-1769, or 377-3798.

SUPPLEMENTARY INFORMATION: The products covered by this antidumping duty order are V-belts and synchronous

industrial belts and components and parts thereof, whether cured or uncured, from Italy currently classifiable under Harmonized Tariff Schedule (HTS) subheadings 3926.90.55, 3926.90.56, 3926.90.57, 3926.90.59, 3926.90.60, 4010.10.10, 4010.10.50, 4010.91.11, 4010.91.15, 4010.91.19, 4010.91.50, 4010.99.11, 4010.99.15, 4010.99.19, 4010.99.50, 5910.00.10, 5910.00.90, and 7326.20.00. These products were previously provided for under TSUSA item numbers 358.0210, 358.0290, 358.0610, 358.0690, 358.0800, 358.0900, 358.1100, 358.1400, 358.1600, 657.2520, 773.3510 and 773.3520.

The merchandise covered by this antidumping duty order includes V-belts and synchronous industrial belts used for power transmission. These include V-belts and synchronous belts, in part or wholly of rubber or plastic, and containing textile fiber (including glass fiber) or steel wire, cord or strand, and whether in endless (i.e., closed loops) belts, or in belting in lengths or links.

In accordance with section 735(a) of the Act (19 U.S.C. 1673d(a)), on April 11, 1989, the Department made its final determination that industrial belts and components and parts thereof, whether cured or uncured, from Italy are being sold at less than fair value (54 FR 15483, April 18, 1989) and that critical circumstances exist with respect to Pirelli Trasmissioni Industriali. With respect to firms covered by the "All-Other" rate, we determined that critical circumstances did not exist. On May 31, 1989, in accordance with section 735(d) of the Act, the ITC notified the Department that imports of V-belts and synchronous industrial belts from Italy are materially injuring or threatening material injury to a U.S. industry and that critical circumstances do not exist with respect to any imports of industrial belts from Italy. The ITC also determined that imports of other belts and components and parts thereof, whether cured or uncured, from Italy are not materially injuring, threatening material injury to, or retarding the establishment of, a U.S. industry.

Therefore, in accordance with sections 736 and 751 of the Act (19 U.S.C. 1673e and 1675), the Department will direct U.S. Customs officers to assess, upon further advice by the administering authority pursuant to section 736(a)(1) of the Act (19 U.S.C. 1673e(a)(1)), antidumping duties equal to the amount by which the foreign market value of the merchandise exceeds the United States price for all entries of V-belts and synchronous industrial belts from Italy. These antidumping duties will be assessed on all unliquidated entries of V-belts and synchronous industrial belts from Italy entered or withdrawn from warehouse, for consumption, on or after February 1, 1989, the date on which the Department published its preliminary determination notice in the **Federal Register** (54 FR 5103, February 1, 1989).

On or after the date of publication of this order, U.S. Customs officers must require a cash deposit equal to the margin percentage noted below for entries of V-belts and synchronous industrial belts from Italy:

Manufacturers/producers/exporters	Margin percentage
Pirelli Trasmissioni Industriali	74.90
All Others	74.90

This determination constitutes an antidumping duty order with respect to V-belts and synchronous industrial belts and components and parts thereof, whether cured or uncured, from Italy, pursuant to sections 735(d) and 736(a) of the Act (19 U.S.C. 1673d(d) and 1673e(a)). Interested parties may contact the Central Records Unit, Room B-099, Import Administration, for copies of an updated list of antidumping duty orders currently in effect.

This notice is published in accordance with sections 735(d) and 736(a) of the Act (19 U.S.C. 1673d(d) and 1673e(a)).

June 7, 1989.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 89-14209 Filed 6-13-89; 8:45 am]

BILLING CODE 3510-DS-M

[A-588-807]

Antidumping Duty Order of Sales at Less Than Fair Value; Industrial Belts and Components and Parts Thereof, Whether Cured or Uncured, From Japan

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: In its investigation, the U.S. Department of Commerce determined that industrial belts and components and parts thereof, whether cured or uncured, from Japan were being sold at less than fair value. In a separate investigation, the U.S. International Trade Commission (ITC) determined that a U.S. industry is materially injured or threatened with material injury by reason of imports of industrial belts from Japan.

In addition, on April 11, 1989, the Department found that critical circumstances existed with respect to industrial belts and components and parts thereof, whether cured or uncured, from Japan. However, on May 31, 1989, the ITC notified the Department that critical circumstances do not exist with respect to any imports from Japan. As a result of the ITC's negative critical circumstances determination, pursuant to section 735(c)(3)(B) of the Act, the U.S. Customs Service will refund all cash deposits and release all bonds collected on industrial belts and components and parts thereof, whether cured or uncured, from Japan entered or withdrawn from warehouse, for consumption on or after November 3, 1988, and before February 1, 1989.

Based on the affirmative findings of the Department and the ITC, all unliquidated entries of industrial belts from Japan, as described in this notice, which were entered, or withdrawn from warehouse, for consumption on or after February 1, 1989, the date on which the Department published its preliminary affirmative antidumping duty determinations in the **Federal Register**, will be liable for the possible assessment of antidumping duties.

A cash deposit of estimated antidumping duties must be made on all entries of industrial belts from Japan entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this antidumping duty order in the **Federal Register**.

EFFECTIVE DATE: June 14, 1989.

FOR FURTHER INFORMATION CONTACT: Louis Apple or Mark Wells, Office of Antidumping Investigations, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377-1769, or 377-3798.

SUPPLEMENTARY INFORMATION: The products covered by this antidumping duty order are industrial belts and components and parts thereof, whether cured or uncured, from Japan currently classifiable under Harmonized Tariff Schedule (HTS) sub-headings 3926.90.55, 3926.90.56, 3926.90.57, 3926.90.59, 3926.90.60, 4010.10.10, 4010.10.50, 4010.91.11, 4010.91.15, 4010.91.19, 4010.91.50, 4010.99.11, 4010.99.15, 4010.99.19, 4010.99.50, 5910.00.10, 5910.00.90, and 7326.20.00. These products were previously provided for under TSUSA item numbers 358.0210, 358.0290, 358.0610, 358.0690, 358.0800,

358.0900, 358.1100, 358.1400, 358.1600, 657.2520, 773.3510 and 773.3520.

The merchandise covered by this antidumping duty order includes industrial belts used for power transmission. These include industrial belts, in part or wholly of rubber or plastic, and containing textile fiber (including glass fiber) or steel wire, cord or strand, and whether in endless (*i.e.*, closed loops) belts, or in belting in lengths or links.

In accordance with section 735(a) of the Act (19 U.S.C. 1673d(a)), on April 11, 1989, the Department made its final determination that industrial belts and components and parts thereof, whether cured or uncured, from Japan are being sold at less than fair value (54 FR 15485, April 18, 1989) and that critical circumstances exist with respect to Bando Chemical Industries, Ltd. With respect to firms covered by the "All-Other" rate, we determined that critical circumstances did not exist. On May 31, 1989, in accordance with section 735(d) of the Act, the ITC notified the Department that imports of industrial belts from Japan are materially injuring or threatening material injury to a U.S. industry and that critical circumstances do not exist with respect to any imports of industrial belts from Japan.

Therefore, in accordance with sections 736 and 751 of the Act (19 U.S.C. 1673e and 1675), the Department will direct U.S. Customs officers to assess, upon further advice by the administering authority pursuant to section 736(a)(1) of the Act (19 U.S.C. 1673e(a)(1)), antidumping duties equal to the amount by which the foreign market value of the merchandise exceeds the United States price for all entries of industrial belts from Japan. These antidumping duties will be assessed on all unliquidated entries of industrial belts from Japan entered or withdrawn from warehouse, for consumption, on or after February 1, 1989, the date on which the Department published its preliminary determination notice in the **Federal Register** (54 FR 5114, February 1, 1989).

On or after the date of publication of this order, U.S. Customs officers must require a cash deposit equal to the margin percentage noted below for entries of industrial belts from Japan:

Manufacturers/Producers/Exporters	Margin percentage
Bando Chemical Industries, Ltd.	93.16
All others	93.16

This determination constitutes an antidumping duty order with respect to industrial belts and components and parts thereof, whether cured or uncured, from Japan, pursuant to sections 735(d) and 736(a) of the Act (19 U.S.C. 1673d(d) and 1673e(a)). Interested parties may contact the Central Records Unit, Room B-099, Import Administration, for copies of an updated list of antidumping duty orders currently in effect.

This notice is published in accordance with sections 735(d) and 736(a) of the Act (19 U.S.C. 1673d(d) and 1673e(a)).

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

June 7, 1989.

[FR Doc. 89-14210 Filed 6-13-89; 8:45 am]

BILLING CODE 3510-DS-M

[A-559-802]

Antidumping Duty Order of Sales at Less Than Fair Value; Industrial Belts and Components and Parts Thereof, Whether Cured or Uncured, From Singapore

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: In its investigation, the U.S. Department of Commerce determined that industrial belts and components and parts thereof, whether cured or uncured, from Singapore were being sold at less than fair value. In a separate investigation, the U.S. International Trade Commission (ITC) determined that a U.S. industry is materially injured or threatened with material injury by reason of imports of industrial V-belts from Singapore.

The ITC also determined that an industry in the United States is not materially injured or threatened with material injury, and the establishment of an industry in the United States is not materially retarded, by reason of imports of other industrial belts, and components and parts thereof, whether cured or uncured, from Singapore.

As a result, pursuant to section 735(c)(2)(B) of the Tariff Act of 1930, as amended (19 U.S.C. 1673d(c)(2)(B))(the Act), estimated antidumping duties deposited on entries of industrial belts except for V-belts and components and parts thereof, whether cured or uncured from Singapore shall be refunded and the appropriate bonds or other security released.

In addition, on April 11, 1989, the Department found that critical circumstances did not exist with respect to industrial belts and components and parts thereof, whether cured or uncured, from Singapore.

Based on the affirmative findings of the Department and the ITC, all unliquidated entries of industrial V-belts and components and parts thereof, whether cured or uncured from Singapore, as described in this notice, which were entered, or withdrawn from warehouse, for consumption on or after February 1, 1989, the date on which the Department published its preliminary affirmative antidumping duty determination in the **Federal Register**, will be liable for the possible assessment of antidumping duties.

A cash deposit of estimated antidumping duties must be made on all entries of industrial V-belts from Singapore entered, or withdrawn from warehouse, for consumption on or after the date of publication of this antidumping duty order in the **Federal Register**.

EFFECTIVE DATE: June 14, 1989.

FOR FURTHER INFORMATION CONTACT: Louis Apple or Mark Wells, Office of Antidumping Investigations, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 377-1769, or 377-3798.

SUPPLEMENTAL INFORMATION: The products covered by this antidumping duty order are industrial V-belts and components and parts thereof, whether cured or uncured, from Singapore currently classifiable under Harmonized Tariff Schedule (HTS) sub-headings 3926.90.55, 4010.10.10, 4010.10.50, 5910.00.10, 5910.00.90, and 7326.20.00. These products were previously provided for under TSUSA item numbers 358.0210, 358.0290, 657.2520, and 773.3520.

The merchandise covered by this antidumping duty order includes industrial V-belts used for power transmission. These include industrial V-belts, in part or wholly of rubber or plastic, and containing textile fiber (including glass fiber) or steel wire, cord or strand, and whether in endless (i.e., closed loops) belts, or in belting in lengths or links.

In accordance with section 735(a) of the Act (19 U.S.C. 1673d(a)), on April 11, 1989, the Department made its final determination that industrial belts and components and parts thereof, whether cured or uncured, from Singapore are being sold at less than fair value (54 FR 15489, April 18, 1989) and that critical circumstances do not exist with respect to imports of industrial belts from Singapore. On May 31, 1989, in

accordance with section 735(d) of the Act, the ITC notified the Department that imports of industrial V-belts from Singapore are materially injuring or threatening material injury to a U.S. industry. The ITC also determined that imports of other industrial belts and components and parts thereof, whether cured or uncured, from Singapore are not materially injuring, threatening material injury to, or retarding the establishment of, a U.S. industry.

Therefore, in accordance with sections 736 and 751 of the Act (19 U.S.C. 1673e and 1675), the Department will direct U.S. Customs officers to assess, upon further advice by the administering authority pursuant to section 736(a)(1) of the Act (19 U.S.C. 1673e(a)(1)), antidumping duties equal to the amount by which the foreign market value of the merchandise exceeds the United States price for all entries of industrial V-belts from Singapore. These antidumping duties will be assessed on all unliquidated entries of industrial V-belts from Singapore entered or withdrawn from warehouse, for consumption, on or after February 1, 1989, the date on which the Department published its preliminary determination notice in the **Federal Register** (54 FR 5110, February 1, 1989).

On or after the date of publication of this order, U.S. Customs officers must require a cash deposit equal to the margin percentage noted below for entries of industrial V-belts from Singapore:

Manufacturers/producers/exporters	Margin percentage
Mitsuboshi Belting (Singapore) Pte. Ltd.	31.73
All others	31.73

This determination constitutes an antidumping duty order with respect to industrial V-belts and components and parts thereof, whether cured or uncured, from Singapore, pursuant to sections 735(d) and 736(a) of the Act (19 U.S.C. 1673d(d) and 1673e(a)). Interested parties may contact the Central Records Unit, Room B-099, Import Administration, for copies of an updated list of antidumping duty orders currently in effect.

This notice is published in accordance with sections 735(d) and 736(a) of the Act (19 U.S.C. 1673d(d) and 1673e(a)).

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

June 7, 1989.

[FR Doc. 89-14211 Filed 6-13-89; 8:45 am]

BILLING CODE 3510-DS-M

[A-428-802]

Antidumping Duty Order of Sales at Less Than Fair Value; Industrial Belts and Components and Parts Thereof, Whether Cured or Uncured, From the Federal Republic of Germany

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: In its investigation, the U.S. Department of Commerce determined that industrial belts and components and parts thereof, whether cured or uncured, from the Federal Republic of Germany were being sold at less than fair value. In a separate investigation, the U.S. International Trade Commission (ITC) determined that a U.S. industry is materially injured or threatened with material injury by reason of imports of industrial belts other than V-belts and synchronous belts from the Federal Republic of Germany.

The ITC also determined that an industry in the United States is not materially injured or threatened with material injury, and the establishment of an industry in the United States is not materially retarded, by reason of imports of industrial V-belts and synchronous belts and components and parts thereof, whether cured or uncured from the Federal Republic of Germany.

As a result, pursuant to section 735(c)(2)(B) of the Tariff Act of 1930, as amended (19 U.S.C. 1673d(c)(2)(B)) (the Act), estimated antidumping duties deposited on entries of V-belts and synchronous belts and components and parts thereof, whether cured or uncured, from the Federal Republic of Germany shall be refunded and the appropriate bonds or other security released.

In addition, on April 11, 1989, the Department found that critical circumstances existed with respect to industrial belts and components and parts thereof, whether cured or uncured, from the Federal Republic of Germany. However, on May 31, 1989, the ITC notified the Department that critical circumstances do not exist with respect to any imports from the Federal Republic of Germany. As a result of the ITC's negative critical circumstances determination, pursuant to section 735(c)(3)(B) of the Act, the U.S. Customs Service will refund all cash deposits and release all bonds collected on industrial belts and components and parts thereof, whether cured or uncured, from the Federal Republic of Germany entered or withdrawn from warehouse, for consumption on or after November 3, 1988 and before February 1, 1989.

Based on the affirmative findings of the Department and the ITC, all unliquidated entries of industrial belts other than V-belts and synchronous belts from the Federal Republic of Germany, as described in this notice, which were entered, or withdrawn from warehouse, for consumption on or after February 1, 1989, the date on which the Department published its preliminary affirmative antidumping duty determinations in the **Federal Register**, will be liable for the possible assessment of antidumping duties.

A cash deposit of estimated antidumping duties must be made on all entries of industrial belts other than V-belts and synchronous belts from the Federal Republic of Germany entered, or withdrawn from warehouse, for consumption on or after the date of publication of this antidumping duty order in the **Federal Register**.

EFFECTIVE DATE: June 14, 1989.

FOR FURTHER INFORMATION CONTACT: Louis Apple or Mark Wells, Office of Antidumping Investigations, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 377-1769, or 377-3798.

SUPPLEMENTARY INFORMATION: The products covered by this antidumping duty order are industrial belts other than V-belts and synchronous belts and components and parts thereof, whether cured or uncured, from the Federal Republic of Germany currently classifiable under Harmonized Tariff Schedule (HTS) sub-headings 3926.90.56, 3926.90.57, 3926.90.59, 3926.90.60, 4010.91.11, 4010.91.15, 4010.91.19, 4010.91.50, 4010.99.11, 4010.99.15, 4010.99.19, 4010.99.50, 5910.00.10, 5910.00.90, and 7326.20.00. These products were previously provided for under TSUSA item numbers 358.0610, 358.0690, 358.0800, 358.0900, 358.1100, 358.1400, 358.1600, 657.2520, 773.3510 and 773.3520.

The merchandise covered by this antidumping duty order includes industrial belts other than V-belts and synchronous belts used for power transmission. These include industrial belts other than V-belts and synchronous belts, in part or wholly of rubber or plastic, and containing textile fiber (including glass fiber) or steel wire, cord or strand, and whether in endless (i.e., closed loops) belts, or in belting in lengths or links.

In accordance with section 735(a) of the Act (19 U.S.C. 1673d(a)), on April 11,

1989, the Department made its final determination that industrial belts and components and parts thereof, whether cured or uncured, from the Federal Republic of Germany are being sold at less than fair value (54 FR 15505, April 18, 1989) and that critical circumstances exist with respect to Optibelt Corporation. With respect to firms covered by the "All-Other" rate, we determined that critical circumstances did not exist. On May 31, 1989, in accordance with section 735(d) of the Act, the ITC notified the Department that imports of industrial belts other than V-belts and synchronous belts from the Federal Republic of Germany are materially injuring the U.S. industry and that critical circumstances do not exist with respect to any imports from the Federal Republic of Germany. The ITC also determined that imports of V-belts and synchronous belts and components and parts thereof, whether cured or uncured, from the Federal Republic of Germany are not materially injuring, threatening material injury to, or retarding the establishment of, a U.S. industry.

Therefore, in accordance with sections 736 and 751 of the Act (19 U.S.C. 1673e and 1675), the Department will direct U.S. Customs officers to assess, upon further advice by the administering authority pursuant to section 736(a)(1) of the Act (19 U.S.C. 1673e(a)(1)), antidumping duties equal to the amount by which the foreign market value of the merchandise exceeds the United States price for all entries of industrial belts other than V-belts and synchronous belts from the Federal Republic of Germany. These antidumping duties will be assessed on all unliquidated entries of industrial belts other than V-belts and synchronous belts from the Federal Republic of Germany entered or withdrawn from warehouse, for consumption on or after February 1, 1989, the date on which the Department published its preliminary determination notice in the **Federal Register** (54 FR 5106, February 1, 1989).

On or after the date of publication of this order, U.S. Customs officers must require a cash deposit equal to the margin percentage noted below for entries of industrial belts other than V-belts and synchronous belts from the Federal Republic of Germany:

Manufacturers/Producers/Exporters	Margin percentage
Optibelt Corporation	100.60%
All Others	100.60%

This determination constitutes an antidumping duty order with respect to industrial belts other than V-belts and synchronous belts and components and parts thereof, whether cured or uncured, from the Federal Republic of Germany, pursuant to sections 735(d) and 736(a) of the Act (19 U.S.C. 1673d(d) and 1673e(a)). Interested parties may contact the Central Records Unit, Room B-099, Import Administration, for copies of an updated list of orders currently in effect.

This notice is published in accordance with sections 735(d) and 736(a) of the Act (19 U.S.C. 1673d(d) and 1673e(a)).

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

June 7, 1989.

[FR Doc. 89-14212 Filed 6-13-89; 8:45 am]

BILLING CODE 3510-DS-M

Export Trade Certificate of Review

ACTION: Notice of application for an amendment to an export trade certification of review.

SUMMARY: The Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, has received an application for an amendment to an Export Trade Certificate of Review. This notice summarizes the conduct for which certification is sought and requests comments relevant to whether the Certificate should be amended.

FOR FURTHER INFORMATION CONTACT: George Muller, Acting Director, Office of Export Trading Company Affairs, International Trade Administration, 202/377-5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (Pub. L. 97-290) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. A Certificate of Review protects the holder and the members identified in the Certificate from state and Federal government antitrust actions and from private, treble damage antitrust actions for the export conduct specified in the Certificate and carried out in compliance with its terms and conditions. Section 302(b)(1) of the Act and 15 CFR 325.6(a) require the Secretary to publish a notice in the **Federal Register** identifying the applicant and summarizing its proposed export conduct.

Request for Public Comments

Interested parties may submit written comments relevant to the determination whether a Certificate should be amended. An original and five (5) copies should be submitted not later than 20 days after the date of this notice to: Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, Room 1223, Washington, DC 20230. Information suhmitted by any person is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552). Comments should refer to this application as "Export Trade Certificate of Review, application number 87-2A009."

OETCA has received the following application for an amendment to Export Trade Certificate of Review No. 87-00009, issued on August 27, 1987 (52 FR 33465, September 3, 1987).

Summary of the Application

Applicant: California Cherry Export Association of San Joaquin County (CCEA), 48 E. Oak Street, Post Office Box 877, Lodi, California 95240.

Contact: Jack Johal, legal counsel, telephone: (916) 929-3614.

Application No.: 87-2A009.

Date Deemed Submitted: May 31, 1989.

The California Cherry Export Association of San Joaquin County (CCEA) seeks to amend its Certificate to:

1. Revise the name of the Certificate holder from the "California Cherry Export Association of San Joaquin County" to the "California Cherry Export Association" to reflect its statutory name change of September 19, 1988.

2. Add the following additional companies as "Members" within the meaning of § 325.2(1) of the Regulations (15 CFR 325.2(1)): Churchill Nut Company, Hollister, California; Dole Bakersfield, Inc., Victor, California; and Blue Anchor, Inc., Sacramento, California.

Date: June 9, 1989.

George Muller,

Acting Director, Office of Export Trading Company Affairs.

[FR Doc. 89-14140 Filed 6-13-89; 8:45 am]

BILLING CODE 3510-DR-M

National Oceanic and Atmospheric Administration

Coastal Zone Management: Federal Consistency Appeal by Claire Pappas from an Objection by the New York Department of State

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of dismissal.

In February, 1939, Claire Pappas (Appellant) filed with the Department of Commerce (Department) a notice of appeal under Section 307(c)(3)(A) of the Coastal Zone Management Act of 1972, as amended, 16 U.S.C. 1456(c)(3)(A), and implementing regulations, 15 CFR Part 930, Subpart H. The appeal arose from an objection by the New York Department of State (State) to the Appellant's certification that her proposal to construct a deck at a restaurant in Freeport, New York would be consistent with New York's coastal management program.

In April, 1989, the State informed the Department that before the State lodged its consistency objection, the Corps of Engineers (Corps) had withdrawn without prejudice the Appellant's application for a permit to undertake the construction. The timing of the Corps' withdrawal of the application renders void the State's consistency objection. Moreover, it also eliminates both the Appellant's standing to appeal to the Secretary, and the Secretary's jurisdiction over this matter. Accordingly, the Department dismissed the appeal on May 23, 1989 for good cause pursuant to 15 CFR 930.128 (1988). That dismissal bars the Appellant from filing another appeal from the State's original objection to the aforementioned activities.

FOR ADDITIONAL INFORMATION CONTACT: Sydney Anne Minnerly, Attorney-Adviser, Office of the Assistant General Counsel for Ocean Services, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, 1825 Connecticut Avenue, NW., Suite 603, Washington, DC 20235, (202) 673–5200.

Date: June 8, 1989.

[Federal Domestic Assistance Catalog No. 11.419 Coastal Zone Management Program Assistance]

B. Kent Burton,

Assistant Secretary for Oceans and Atmosphere.

[FR Doc. 89–14113 Filed 6–13–89; 8:45 am]

BILLING CODE 3510–08–M

Affirmation of Datum for Surveying and Mapping Activities

AGENCY: National Oceanic and Atmospheric Administration, National Ocean Service, Charting and Geodetic Services.

ACTION: Notice.

SUMMARY: The Office of Charting and Geodetic Services (C&GS), National Geodetic Survey Division, has completed the redefinition and readjustment of the North American Datum of 1927 (NAD 27), creating the North American Datum of 1983 (NAD 83). The interagency Federal Geodetic Control Committee (FGCC) affirmed NAD 83 is the official civilian horizontal datum for U.S. surveying and mapping activities performed or financed by the Federal Government. Furthermore, to the extent practicable, legally allowable and feasible, all Federal agencies using or producing coordinate information should provide for an orderly transition from NAD 27 to NAD 83.

FOR FURTHER INFORMATION CONTACT: Mr. James E. Stem, N/CG1x4, Rockwall Building, Room 619, National Geodetic Survey, NOAA, Rockville, Maryland 20852; phone: (301) 443–8749.

SUPPLEMENTARY INFORMATION: A **Federal Register** notice published on June 29, 1979 (FR Doc. 79–20169, Vol. 44, No. 127) by the National Oceanic and Atmospheric Administration provided notice of the establishment of a new Datum (NAD 83) to which the geographic and plane coordinate values for the National Network of Horizontal Geodetic Control would be referenced. For all published horizontal stations in the National Geodetic Reference System, NAD 83 values of geodetic position (latitude and longitude), and all subsequently derived plane coordinates are available from the National Ocean Service/National Geodetic Survey Division. For a discussion of the plane coordinate systems published, see the "Policy on Publication of Plane Coordinates" in FR Doc. 77–8847, Vol. 42, No. 57, March 24, 1977. The FGCC, chaired by the Director, C&GS, is mandated by the Office of Management and Budget to coordinate geodetic surveying performed or financed by the Federal Government.

Dated: June 2, 1989.

Thomas J. Maginnis,

Assistant Administrator for Ocean Services and Coastal Zone Management, NOAA.

[FR Doc. 89–14076 Filed 6–13–89; 8:45 am]

BILLING CODE 3510–08–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Public Information Collection Requirement Submitted to OMB Review

ACTION: Notice.

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

Title, Applicable Form, and Applicable OMB Control Number: Officer Training School Accessions; ATC Forms 1413 and 1422; and OMB Control Number 0701–0080.

Type of Request: Revision of currently approved collection.

Average Burden Hours/Minutes per Response: 1 hour and 15 minutes.

Frequency of Response: On occasion.

Number of Respondents: 2,000

Annual Burden Hours: 2,500.

Annual Responses: 2,000.

Needs and Uses: These forms are used by field recruiters in the processing of Officer Training School applications for commissioning in the Air Force.

Affected Public: Individuals or households.

Frequency: One-time only.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: Dr. J. Timothy Sprehe.

Written comments and recommendations on the proposed information collection should be sent to Dr. J. Timothy Sprehe at Office of Management and Budget, Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Ms. Pearl Rascoe-Harrison.

Written request for copies of the information collection proposal should be sent to Ms. Rascoe-Harrison, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, Virginia 22202–4302.

L.M. Bynum,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

June 8, 1989.

[FR Doc. 89–14070 Filed 6–13–89; 8:45 am]

BILLING CODE 3810–01–M

Defense Science Board Task Force on Defense Industrial Cooperation With Pacific Rim Nations

ACTION: Notice of Advisory Committee Meetings.

SUMMARY: The Defense Science Board Task Force on Defense Industrial Cooperation With Pacific Rim Nations will meet in closed session on July 19, 1989 at the Hughes Corporation, Rosslyn, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition on scientific and technical matters as they affect the perceived needs of the Department of

Defense. At this meeting the Task Force will examine the potential for achieving US security objectives in the Pacific Rim area through defense industrial cooperation with the nations of that area.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92–463, as amended (5 U.S.C. App. II, (1982)), it has been determined that this DSB Task Force meeting, concerns matters listed in 5 U.S.C. 552b(c)(1) (1982), and that accordingly this meeting will be closed to the public.

Linda M. Bynum,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

June 8, 1989.

[FR Doc. 89–14071 Filed 6–13–89; 8:45 am]

BILLING CODE 3819–01–M

Defense Intelligence Agency Defense Intelligence College; Closed Meeting

AGENCY: Defense Intelligence Agency Defense Intelligence College.

ACTION: Notice of closed meeting.

SUMMARY: Pursuant to the provisions of Subsection (d) of Section 10 of Public Law 92–463, as amended by Section 5 of Public Law 94–409, notice is hereby given that a closed meeting of the DIA Defense Intelligence College Board of visitors has been scheduled as follows:

DATES: Wednesday, 14 June 1989, and Thursday, 15 June 1989, from 0900 to 1600, and Friday, 16 June 1989, from 0900 to 1130.

ADDRESS: The DIAC, Washington, DC

FOR FURTHER INFORMATION CONTACT: Dr. Robert L. De Gross, Provost, DIA Defense Intelligence College, Washington, DC 20340–5485. (202/373–3344).

SUPPLEMENTARY INFORMATION: The entire meeting is devoted to the discussion of classified information as defined in Section 552b(c) (1), Title 5 of the U.S. Code and therefore will be closed to the public. The Board will receive briefings on and discuss several current critical intelligence issues and adivse the Director, DIA, as to the successful accomplishment of the mission assigned to the Defense Intelligence College.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

June 8, 1989

[FR Doc. 89–14072 Filed 6–13–89; 8:45 am]

BILLING CODE 3810–01–M

DEPARTMENT OF ENERGY

Assistant Secretary for International Affairs and Energy Emergencies

Proposed Subsequent Arrangements

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of proposed "subsequent arrangements" under Additional Agreement for Cooperation between the Government of the United States of America and the European Atomic Energy Community (EURATOM) concerning Peaceful Uses of Atomic Energy, as amended, and the Agreement for Cooperation between the Government of the United States of America and the Government of the Canada concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangements to be carried out under the above-mentioned agreements involve approval of the following retransfers:

RTD/CA(EU)–17, for the transfer of 9,700 kilograms of heavy water from the United Kingdom Atomic Energy Authority, Harwell, England to Canada, for cleaning and de-tritiation, RTD/EU(CA)–9, for the return of 9,700 kilograms of heavy water to Harwell, England following cleaning and de-tritiation in Canada.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that these subsequent arrangements will not be inimical to the common defense and security.

These subsequent arrangements will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Date: June 9, 1989.

Richard H. Williamson,

Deputy Assistant Secretary for International Affairs.

[FR Doc. 89–14130 Filed 6–13–89; 8:45 am]

BILLING CODE 6450–01–M

Advisory Committee on Nuclear Facility Safety; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), notice is hereby given of the following advisory committee meeting:

Name: Advisory Committee on Nuclear Facility Safety.

Date & Time: Friday, June 30, 1989, 8:00 p.m. to 5:00 p.m.; 8:00 p.m. to 10:00 p.m.

Place: Park Inn International, 3706 National Parks Highway, Carlsbad, New Mexico 88220.

Contact: Wallace R. Kornack, Executive Director, ACNFS, S–2, 1000 Independence Avenue, SW., Washington, DC 20585, Telephone: 202/586–1770.

Purpose of the Committee: The Committee was established to provide the Secretary of Energy with advice and recommendations concerning the safety of the Department's production and utilization facilities, as defined in section 11 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2014).

Tentative Agenda

JUNE 30, 1989

8:00 Subcommittee Reports
Review of Waste Isolation Pilot Plant
Issues Presentations by Selected Organizations Final Safety Analysis Report (FSAR) Issues
Noon Lunch
1:00 FSAR Issues (Continued)
Supplemental Impact Statement
Selected Technical Issues Committee Business
5:00 Meeting Adjourned until 8:00 p.m.
8:00—10:00 p.m. Public Comment Session

Public Participation: This meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Wallace R. Kornack at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. The Chairperson of the Committee is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Transcripts: The transcript of the meeting will be available for public review and copying at the Freedom of Information Public Reading Room, IE–190, Forrestal Building, 1000 Independence Ave., SW., Washington, DC, between 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC on June 8, 1989.

J. Robert Franklin,

Deputy Advisory Committee Management Officer.

[FR Doc. 89–14131 Filed 6–13–89; 8:45 am]

BILLING CODE 6450–01–M

Energy Information Administration

Agency Information Collections Under Review By the Office of Management and Budget

AGENCY: Energy Information Administration, Energy.

ACTION: Notice of requests submitted for review by the Office of Management and Budget.

SUMMARY: The Energy Information Administration (EIA) has submitted the energy information collection(s) listed at the end of this notice to the Office of Management and Budget (OMB) for review under provisions of the Paperwork Reduction Act (Public Law 96–511, 44 U.S.C. 3501 et seq).

The listing does not include information collection requirements contained in new or revised regulations which are to be submitted under section 3504(h) of the Paperwork Reduction Act, or management and procurement assistance requirements collected by the Department of Energy (DOE).

Each entry contains the following information: (1) The sponsor of the collection (the DOE component or Federal Energy Regulatory Commission (FERC)); (2) Collection number(s); (3) Current OMB docket number (if applicable); (4) Collection title; (5) Type of request, e.g., new, revision, or extension; (6) Frequency of collection; (7) Response obligation, i.e., mandatory, voluntary, or required to obtain or retain benefit; (8) Affected public; (9) An estimate of the number of respondents per report period; (1) An estimate of the number of responses annually; (11) An estimate of the average hours per response; (12) The estimated total annual respondent burden, and (13) A brief abstract describing the proposed collection and the respondents.

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

ADDRESSES: Address comments to the Department of Energy Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503. (Comments should also be addressed to the Office of Statistical Standards, at the address below.)

FOR FURTHER INFORMATION AND COPIES OF RELEVANT MATERIALS CONTACT: Jay Casselberry, Officer of Statistical Standards (EI–73), Energy Information Administration, M.S. 1H–023, Forrestal Building, 1000 Independence Ave. SW., Washington, DC 20585, (202) 586–2171.

SUPPLEMENTARY INFORMATION: If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the OMB DOE Desk Officer of your intention to do so as soon as possible. The Desk Officer may be telephoned at (202) 395–3084. (Also, please notify the DOE contact listed above.)

The energy information collection submitted to OMB for review was:

1. Federal Energy Regulatory Commission.
2. FERC–577.
3. 1902–0128.
4. Gas Pipeline Certificates: Environmental Impact Statement.
5. Extension.
6. On occasion.
7. Mandatory.
8. Businesses or other for profit.
9. 50 respondents.
10. 300 responses.
11. 321 hours per response.
12. 96,300 hours (total).
13. In accordance with the NGA and NGPA, the information is used to examine and project potential effects on soil, geology, water, land use, recreation, aesthetics, air and noise quality, vegetation, wildlife, cultural resource, and pipeline and LNG safety for construction proposals submitted by pipeline companies.

Statutory Authority: Sec. 5(a), 5(b), 13(b), and 52, Pub. L. 93–275, Federal Energy Administration Act of 1974, 15 U.S.C. 764(a), 764(b), 772(b), and 790a.

Issued in Washington, DC, June 6, 1989.

Yvonne M. Bishop,

Director, Statistical Standards, Energy Information Administration.

[FR Doc. 89–14132 Filed 6–13–89; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket Nos. ER89–265–000 et al.]

Arizona Public Service Co. et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

June 5, 1989.

Take notice that the following filings have been made with the Commission:

1. Arizona Public Service Company

[Docket No. ER89–265–000]

Take notice that on May 22, 1989 Arizona Public Service Company (APS) tendered an amendment to its filing which provides data in response to the Deficiency Letter dated April 20, 1989, from the Division of Electric Power Application Review.

APS requests waiver of notice of its amended filing for good cause shown in order that its originally proposed effective date of June 1, 1989 may be granted. Copies of the amended filing have been served on all affected customers and applicable state regulatory agencies governing such customers who were originally served with the filing. Additionally, a copy of the Deficiency Letter has been provided to said entities.

Comment date: June 19, 1989, in accordance with Standard Paragraph E at the end of this notice.

2. Utah Power & Light Company

[Docket No. ER89–325–000]

Take notice that on May 22, 1989, Utah Power & Light Company (Utah) tendered for filing an amendment to Exhibit A of the Interconnected Operation Agreement between Utah Municipal Power Agency (UMPA) and Utah. The purpose of the Amendment is to state with specificity the currently-existing rate under Utah's FERC Electric Tariff Schedule RS–RP.

Copies of this filing were served on UMPA, the Towns of Levan and Nephi, Utah, the Utah Public Service Commission, and legal counsel for UMPA.

Comment date: June 19, 1989, in accordance with Standard Paragraph E at the end of this notice.

3. Duke Power Company

[Docket No. ER89–437–000]

Take notice that on May 15, 1989, Duke Power Company (Duke Power) tendered for filing estimated billing information for calendar year 1989 pursuant to which Piedmont Municipal Power Agency will be billed by Duke Power under Rate Schedule FERC No. 276.

Comment date: June 19, 1989, in accordance with Standard Paragraph E at the end of this notice.

4. Duke Power Company

[Docket No. ER89–438–000]

Take notice that on May 15, 1989, Duke Power Company (Duke Power) tendered for filing the 1988 Catawba Interconnect Annual Actual Statements for Rate Schedule FERC No. 273 between Duke Power and North Carolina Electric Membership Corporation.

Comment date: June 19, 1989, in accordance with Standard Paragraph E at the end of this notice.

5. Duke Power Company

[Docket No. ER89–447–000]

Take notice that on May 16, 1989, Duke Power Company (Duke Power)

tendered for filing estimated billing information for calendar year 1989 pursuant to which North Carolina Electric Membership Corporation will be billed by Duke Power under Rate Schedule FERC No. 273.

Comment date: June 19, 1989, in accordance with Standard Paragraph E at the end of this notice.

6. Southern California Edison Company

[Docket No. ER89-454-000]

Take notice that on May 23, 1989, Southern California Edison Company (Edison) tendered for filing Amendment No. 2 to the Edison-Azusa Interruptible Transmission Service Agreement (Amendment) designated Rate Schedule FERC No. 160, which has been executed by Edison and the City of Azusa, California (Azusa):

Amendment No. 2 to the Edison-Azusa Interruptible Transmission Service Agreement

This Amendment reflects the following changes: (1) Change in transmission losses associated with the construction of the 500 kV transmission facilities between the Devers, Valley, and Serrano Substations, the construction costs of which were reflected in rates July 1, 1988, per FERC Decision dated January 23, 1989, in Docket No. ER88-577-000; and (2) the addition of section 6.3 to the Agreement which allows the Authorized Representatives to change the transmission losses thereby eliminating the need to amend the Agreement each time there is a change in transmission losses.

The Amendment is proposed to become effective when executed by the Parties and accepted for filing by the Commission.

Copies of this filing were served upon the Public Utilities Commission of the State of California and Azusa.

Comment date: June 19, 1989, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. 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 Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. 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. 89-14066 Filed 6-13-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ES89-24-000 et al.]

Centel Corporation et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

June 7, 1989.

Take notice that the following filings have been made with the Commission:

1. Centel Corporation

[Docket No. ES89-24-000]

Take notice that on May 31, 1989, Centel Corporation (Applicant) filed an application with the Federal Energy Regulatory Commission, pursuant to Section 204 of the Federal Power Act, seeking an order authorizing the issuance of up to 1,500,000 shares of its common stock, $2.50 par value, to be issued in connection with its Dividend Reinvestment Plan, the Retirement Savings Plan and the Nonexempt Employee Retirement Savings Plan.

Comment date: June 23, 1989, in accordance with Standard Paragraph E at the end of this notice.

2. Snohomish County Department of Public Works

[Docket No. QF89-209-000]

On May 26, 1989, Snohomish County Department of Public Works (Applicant), of Solid Waste Division, First floor Administration Annex, Everett, Washington 98201 submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The small power production facility will be located in Snohomish, Washington. The facility will consist of six engine/generator sets. The electric power production capacity will be 6.6 megawatts. The primary energy source will be biomass in the form of landfill gas. The facility has no planned use of natural gas, oil, or coal.

Comment date: Thirty days from publication in the **Federal Register**, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs:

E. 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 Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. 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. 89-14067 Filed 6-13-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ES89-25-000 et al.]

El Paso Electric Co. et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

June 8, 1989.

Take notice that the following filings have been made with the Commission:

1. El Paso Electric Company

[Docket No. ES89-25-000]

Take notice that on June 2, 1989, El Paso Electric Company filed an application with the Federal Energy Regulatory Commission (the "Commission"), pursuant to Section 204 of the Federal Power Act, seeking authority to issue up to 300,000 additional shares of Common Stock, no par value (resulting in an authorized total of 600,000 shares), pursuant to the El Paso Electric Company Employee Stock Compensation Plan.

Comment date: July 3, 1989, in accordance with Standard Paragraph E at the end of this notice.

2. Potomac Electric Power Company

[Docket No. ER89-456-000]

Take notice that on May 24, 1989, Potomac Electric Power Company (Pepco) and the Potomac Edison Company (PE) tendered for filing a second amendment to their 1963 facility agreement (Pepco FERC Rate Schedule No. 16) governing the interconnection between the parties. The second amendment provides for PE's relocation for its convenience of one or more existing 230 kv circuit breakers to a new

PE substation in western Montgomery County, Maryland, in a manner which does not reduce the rating of the interconnection or affect existing facilities charges therefore.

Comment date: June 22, 1989, in accordance with Standard Paragraph E at the end of this notice.

3. Pacific Gas and Electric Company

[Docket No. ER89-457-000]

Take notice that on May 25, 1989, Pacific Gas and Electric Company (PG&E) tendered for filing several modifications to rate schedules which cover services provided by PG&E to SMUD. The modifications consist of: (1) A Letter Agreement dated October 14, 1981; and (2) a Contract Amendment dated May 8, 1985, both of which modify Rate Schedule FERC No. 45, the June 4, 1970 Power Sale Exchange, and Integration Contract (Integration Contract); (3) A Contract Amendment dated July 16, 1986 modifying Rate Schedule FERC No. 88, the Slab Creek Interconnection and Transmission Service Agreement; and (4) a Contract Amendment dated July 16, 1986 modifying Rate Schedule FERC No. 88, the Camp Far West Interconnection and Transmission Service Agreement. The modifications were necessary respectively to: (1) Contractually accommodate changes SMUD made to its transmission system; (2) incorporate certain new resources into the Integration Contract; and (3) reconcile termination dates of these two interconnection and transmission service agreements with the Integration Agreement.

Copies of this filing were served upon SMUD and the California Public Utilities Commission.

Comment date: June 22, 1989, in accordance with Standard Paragraph E at the end of this notice.

4. Wisconsin Power and Light Company

[Docket No. ER89-459-000]

Take notice that on May 25, 1989, Wisconsin Power & Light Company (WPL) tendered for filing a new wholesale power agreement dated May 2, 1989, between the City of Richland Center and WPL. WPL states that this new wholesale power agreement supercedes the previous agreement between the two parties which was dated February 21, 1983, and designated Rate Schedule No. 134 by the Commission.

The purpose of this new agreement is to provide for terms of service on a similar basis to the terms of service for other wholesale customers.

WPL requests that an effective date concurrent with the contract effective date be assigned. WPL states that copies of the agreement and the filing have been provided to the City of Richland Center and the Wisconsin Public Service Commission.

Comment date: June 22, 1989, in accordance with Standard Paragraph E at the end of this notice.

5. Public Service Electric and Gas Company

[Docket No. ER89-461-000]

Take notice that Public Service Electric and Gas Company (PS) on May 25, 1989, tendered for filing proposed revised Schedules 1.01, 1.02, 1.03, 1.04, 2.01, and 3.04 and new Schedule 1.06 to the existing Interconnection Agreement between PS and Jersey Central Power and Light Company (JC) dated November 29, 1960, as supplemented (PS FERC Rate Schedule No. 28).

PS states that the reason for the filing is to cover supplying of service to JC's East Flemington and Newton Substantions, supplying of service to PS' Greenbrook Substation, PS providing back-up transmission service to JC's southern area under an Agreement dated March 23, 1989, and termination of the Werner-Mechanic Street 26,000-volt interconnection.

PS requests that the filing be permitted to become effective as of the date of the Back-Up Transmission Agreement, March 23, 1989, therefore requests waiver of the Commission's notice requirements.

Comment date: June 22, 1989, in accordance with Standard Paragraph E at the end of this notice.

6. Carolina Power & Light Company

[Docket No. ER89-460-000]

Take notice that on May 24, 1989, Carolina Power & light Company (CP&L) filed with the Commission pursuant to section 205 of the Federal Power Act § 35.13 of the Commission's Regulations, 18 CFR 35.13 (1988), a proposed rider to its Resale Service Schedules RS88-1B and RS88-2B. CP&L requests that the proposed rider be accepted for filing without suspension and that the Commission put it into effect 60 days from the date of filing.

CP&L states that the proposed rider is designed to set forth the appropriate billing procedures for those instances where full requirements customers of CP&L receive power from a qualifying facility, that term is defined in 18 CFR 292.101(b)(1) (1988). CP&L states that under the proposed rider, when a full requirements customer receives power from qualifying facility, the monthly reduction in that customer's bill will be calculated at CP&L's full avoided-cost rate established the appropriate state utility commission.

Comment date: June 22, 1989, in accordance with Standard Paragraph end of this notice.

7. Kansas Power and Light Company

[Docket No. ER89-455-000]

Take notice that on May 23, 1989, the Kansas Power and Light Company (KPL) tendered for filing proposed changes in its schedule of rates and charges applicable to its partial requirements municipal customers located in the State of Kansas, as follows:

Partial requirements, municipal customer	FERC rate schedule No.
City of Burlingame	250
City of Clay Center	241
City of Ellinwood	242
City of Herington	209
City of Holton	226
City of Larned	240
City of Minneapolis	211
City of Osage City	249
City of Sabetha	235
City of St. John	252
City of Stafford	243
City of Sterling	237
City of Wamego	184

Schedule WTU-6/89 includes new interruptible emergency service provisions. Additionally, the schedule provision which allows for the redesignation of peak period hours as non-peak hours by KPL has been modified.

The new interruptible emergency service provisions in the revised Schedule WTU-6/89 make interruptible service available to KPL's partial requirements municipal customers during peak period hours in order to help them cope with outages of their generating facilities which are beyond their control. The peak period redesignation provisions have been modified to improve the generation equipment utilization efficiency of both KPL and the partial requirements municipal customers.

Copies of the filing were served upon each affected customer and the Kansas Corporation Commission.

Comment date: June 22, 1989, in accordance with Standard Paragraph E at the end of this notice.

8. Pacific Gas and Electric Company

[Docket No. ER89-475-000]

Take notice that on June 1, 1989, Pacific Gas and Electric Company (PG&E) tendered for filing, as a change

in rate schedule, an Interconnection Rate Schedule (IRS) covering rates, terms and conditions for services rendered by PG&E to the Sacramento Municipal Utility District (SMUD) under the IRS and for the interconnection of the Parties' electrical systems.

Prior to January 1, 1989 PG&E directly served SMUD under FERC Rate Schedule Nol 45 (the June 4, 1970 Power Sale, Exchange and Integration Contract, as amended and supplemented). Upon its effective date the IRS will supersede and terminate Rate Schedule No. 45 and all FERC-jurisdictional amendments, agreements supplements and rate schedules filed thereunder, with the exception of Supplement No. 6 (transmission service for SMUD's share of the Coldwater Creek plant output).

Pursuant to the IRS, PG&E is offering to provide the following services to SMUD:

Forecasted Firm Power (Service Schedule A), Section K.2;

Support Power Service (Service Schedule B), Section K.3;

Firm Transmission Service (Service Schedule C), Section K.4.1;

Interruptible Transmission Service (Service Schedule D), Section K.4.2;

Transmission Service Associated With the Power Sale Agreement (Service Schedule E), Section K.4.3;

Scheduling Service (Service Schedule F), Section K.5.1;

Regulation Service (Service Schedule G), Section K.5.2;

Customer Charge (Service Schedule H), Section K.6.1;

Voltage Regulation (Service Schedule I), Section K.6.2;

Reactive Power Correction (Service Schedule J), Section K.6.3;

Standby Station Service (Service Schedule K), Section K.6.4;

Non-Spinning Reserve Charge (Service Schedule L), Section K.6.5;

In addition, the following are covered by the IRS: Ten-Minute Emergency Power Service, rate procedures for Diablo Canyon Nuclear Power Plant, rate adjustmens and Fuel Cost Adjustment.

PG&E is requesting an effective date of January 1, 1990 to coincide with the termination of FERC Rate Schedule No. 45. PG&E also is requesting a waiver of the notice requirement in Section 35.3 of the Commission's regulations (18 CFR 35.3).

Copies of this filing were served upon SMUD and the California Public Utilities Commission.

Comment date: June 22, 1989, in accordance with Standard Paragraph E at the end of this notice.

9. Southeastern Power Administration

[Docket No. EF89-3011-000]

Take notice that on May 30, 1989, the Deputy Secretary of the Department of Energy confirmed and approved, on an interim basis effective midnight June 1, 1989, Rate Schedules GA-1-B, GA-2-B, GA-3-A, GU-1-B, ALA-1-F, ALA-3-B, MISS-1-F, MISS-2-B, SC-3-A, CAR-3-A, and SCE-2-A for power from Southeastern Power Administration (Southeastern) Georgia-Alabama Projects. The approval extends through September 30, 1990.

The Deputy Secretary states that the Commission, by order issued July 22, 1986, in Docket No. EF86-3011, confirmed and approved Rate Schedules GA-1-A, GA-2-A, GU-1-A, GAMF-2-E, ALA-1-E, ALA-3-A, MISS-1-E, MISS-2-A, SC-1-E, SC-2-E, CAR-1-F, and SCE-1-A through September 30, 1990.

Southeastern proposes in the instant filing to replace Rate Schedule GA-1-A with GA-1-B and GA-3-A, and replace GA-2-A, GU-1-A, ALA-1-E, ALA-3-A, MISS-1-E, and MISS-2-B, respectively. Rate Schedule SC-3-A, CAR-3-A, and SCE-2-A have been added to provide rates for preference customers in the South Carolina Public Service Authority, Duke Power Company Area, and South Carolina Electric & Gas Company area, and Rate Schedules GAMF-2-E, SC-1-E, SC-2-E, CAR-1-F, and SCE-1-A remain in effect. The rate adjustment was designed to increase annual revenues on an average by $12,757,000 over the 16-month rate review period, an increase of approximately 12 percent. The increase is due primarily to increased operation and maintenance expenses at Corps of Engineers' projects and the drought.

Present contracts allow rate adjustment only on October 1, 1990, and every 5 successive years thereafter. Southeastern proposed a contract adjustment which would allow a rate increase to be effective on June 1, 1989. Some customers were not willing to agree to a rate increase which was not allowed by contract. Therefore, Southeastern is proposing to raise rates for those customers who will agree to the rate increase and leave existing rate schedules for those who will not agree to the rate increase. Southeastern will recoup the revenue shortfall in the October 1, 1990, rate increase. The interim rate schedules are submitted for confirmation and approval on a final basis pursuant to the authority vested in the Commission by Delegation Order No. 0204-108. Approval is requested for a period ending September 30, 1990.

Comment date: June 23, 1989, in accordance wth Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. 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 Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. 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. 89-14086 Filed 6-13-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP89-1439-000 et al.]

ANR Pipeline Company et al.; Natural Gas Certificate Filings

June 8, 1989.

Take notice that the following filings have been made with the Commission:

1. ANR Pipeline Company

[Docket No. CP89-1439-000]

Take notice that on May 18, 1989, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP89-1439-000 a request pursuant to § 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas under the blanket certificate issued in Docket No. CP88-532-000 pursuant to Section 7(c) of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

ANR proposes to transport gas on an interruptible basis for Cornerstone Production Corp. (Cornerstone). ANR explains that service commenced April 1, 1989 under §§ 284.223(a) of the Commission's Regulations, as reported in Docket No. ST89-3372-000. ANR further explains that the peak day quantity would be 150,000 dekatherms, the average daily quantity would be 150,000 dekatherms, and that the annual

quantity would be 54,750,000 dekatherms. ANR explains that it would receive natural gas at existing points of receipt in the Offshore Louisiana Gathering area. ANR states that it would deliver the gas to Cornerstone at existing interconnections located in the State of Louisiana.

Comment date: July 24, 1989, in accordance with Standard Paragraph G at the end of this notice.

2. Texas Eastern Transmission Corporation

[Docket No. CP89–1478–000]

Take notice that on May 22, 1989, Texas Eastern Transmission Corporation (Texas Eastern) P.O. Box 2521, Houston, Texas 77252, filed in Docket No. CP89–1478–000 a request pursuant to §§ 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act to add ten delivery points to its existing Rate Schedule FTS–4 Service Agreement with Public Service Electric and Gas Company (PSE&G) all as more fully set forth in the request on file with the Commission and open to public inspection.

Texas Eastern states that the location of the ten delivery points are as follows:

Measuring Station No.	Location
0049	Middlesex County, New Jersey
0057	Middlesex County, New Jersey
0949	Morris County, New Jersey
1196	Somerset County, New Jersey
1207	Somerset County, New Jersey
1208	Morris County, New Jersey
1209	Passaic County, New Jersey
0066	Middlesex County, New Jersey
1464	Somerset County, New Jersey
2263	Middlesex County, New Jersey

Further, Texas Eastern states that no new facilities will be constructed, as the delivery points proposed to be added are existing points of interconnection between the pipeline systems of Texas Eastern and PSE&G.

Texas Eastern also states that the quantities of natural gas to be delivered are presently certificated and volumes will remain within the Maximum Daily Transportation Quantity (MDTQ) previously approved by the Commission.

In addition, Texas Eastern submits that the proposal herein will not cause any detriment or disadvantage to its other customers.

Comment date: July 24, 1989, in accordance with Standard Paragraph G at the end of this notice.

3. ALG Gas Supply Company, et al.

[Docket No. CI88–452–001, *et al.*]

Take notice that each Applicant listed herein has filed an application pursuant to Section 7 of the Natural Gas Act and the Federal Energy Regulatory Commission's (Commission) regulations thereunder for amendment of its blanket limited-term certificate with pregranted abandonment previously issued by the Commission for a term expiring March 31, 1989, to extend such authorization or for a blanket limited-term certificate with pregranted abandonment, all as more fully set forth in the applications which are on file with the Commission and open for public inspection.

This notice does not provide for consolidation for hearing of the several matters covered herein.

Comment date: June 27, 1989, in accordance with Standard Paragraph J at the end of this notice.

Docket no.	Date filed	Applicant
CI88–452–001 [1].	5–25–89	ALG Gas Supply Company, *et al.*[2] 400 East Capitol Street Little Rock, Arkansas 72202.
CI89–424–000 [3].	5–25–89	Enron Oil & Gas Marketing, Inc. P.O. Box 1188 Houston, Texas 77251.

[1] Applicant requests extension for an unlimited term.

[2] The *et al.* parties are ALG Gas Supply Company of Arkansas, ALG Gas Supply Company of Kansas, ALG Gas Supply Company of Louisiana, ALG Gas Supply Company of Oklahoma, and ALG Gas Supply Company of Texas.

[3] Applicant requests authorization for a three-year term.

Transcontinental Gas Pipe Line Corporation

[Docket No. CP89–1566–000]

Take notice that on June 5, 1989, Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77251, filed in Docket NO. CP89–1566–000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport gas on an interruptible basis for Brooklyn Interstate Natural Gas Corporation (Brooklyn Interstate) under its blanket certificate issued in Docket No. CP88–328–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Transco states that it would receive the gas for Brooklyn Interstate at various existing points of receipt in offshore Louisiana, Louisiana, offshore Texas and Texas, and would redeliver the gas at various existing delivery points located in offshore Louisiana, Louisiana, offshore Texas, Texas, Alabama, North Carolina, South Carolina, Georgia, Virginia, Maryland, Missisippi, Pennsylvania, New York, New Jersey and Delaware.

Transco further states that the maximum daily, average daily and annual quantities that it would transport for Brooklyn Interstate would be 3,912,600 dt equivalent of natural gas, 25,000 dt equivalent of natural gas and 9,125,000 dt equivalent of natural gas, respectively.

Transco indicates that in a filing made with the Commission in Docket No. ST89–3132, it reported that transportation service for Brooklyn Interstate commenced on April 7, 1989 under the 120–day automatic authorization provisions of § 284.223(a).

Comment date: July 24, 1989, in accordance with Standard Paragraph G at the end of this notice.

5. Trunkline Gas Company

[Docket No. CP89–1559–000]

Take notice that on June 2, 1989, Trunkline Gas Company (Trunkline), P.O. Box 1642, Houston, Texas 77251–1642, filed in Docket No. CP89–1559–000 a request pursuant to Section 157.205 of the Commission's Regulations for authorization to provide transportation service on behalf of PSI, Inc. (PSI), a shipper and marketer of natural gas, under its blanket certificate issued in Docket No. CP89–586–000, pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Trunkline requests authorization to transport, on an interruptible basis, up to 20,000 dt of natural gas on a peak day; 10,000 dt on an average day; and 3,650,000 dt annually for PSI from receipt points located in the states of Illinois, Louisiana, Tennessee and Texas. Trunkline will then transport and redeliver the gas, less fuel and unaccounted for line loss, to Mississippi River Transmission Corporation in Clay County, Illinois. The transportation agreement dated January 13, 1989 (Contract No. T–PLT–1384), has a primary term of one month and shall continue in effect month-to-month thereafter until terminated by either party upon at least 30 days written notice.

Trunkline states that the transportation of natural gas for PSI commenced April 6, 1989, as reported in Docket No. ST89–3159–000, for a 120-day period pursuant to § 284.223(a) of the Commission's Regulations.

Comment date: July 24, 1989, in accordance with Standard Paragraph G at the end of this notice.

6. Panhandle Eastern Pipe Line Company

[Docket No. CP89–1537–000]

Take notice that on May 30, 1989, Panhandle Eastern Pipeline Company (Panhandle), P.O. Box 1642, Houston, Texas 77251–1642 filed in Docket No. CP89–1537–000 a request pursuant to § 157.205 of the Commission's Regulations for authorization to transport natural gas for Amarillo Natural Gas Company, Inc. (Amarillo), a marketer of natural gas, under Panhandle's blanket certificate issued in Docket No. CP86–585–000, pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Panhandle proposes to transport, on an interruptible basis, up to 400 dt equivalent of natural gas on a peak day for Amarillo, 400 dt equivalent on an average day and 146,000 dt equivalent on an annual basis. It is stated that the transportation service would be effected using existing facilities and would not require any construction of additional facilities. It is explained that Panhandle would receive the gas at designated points on its system and would deliver equivalent volumes of gas less fuel and unaccounted for line loss to designated points in Hansford County, Texas and Texas County, Oklahoma. It is explained that the service commenced April 8, 1989, under the automatic authorization provisions of § 284.223 of the Commission's Regulations, as reported in Docket No. ST89–3397.

Comment date: July 24, 1989, in accordance with Standard Paragraph G at the end of this notice.

7. Northern Natural Gas Company, Division of Enron Corp.

[Docket No. CP89–1568–000]

Take notice that on June 5, 1989, Northern Natural Gas Company, Division of Enron Corp. (Northern), 1400 Smith Street, P.O. Box 1188, Houston, Texas 77251–1188, filed in Docket No. CP89–1568–000 a request pursuant to § 157.205 of the Commission's Regulations for authorization to provide transportation service on behalf of Exxon Corporation (Exxon), a producer of natural gas, under Northern's blanket certificate issued in Docket No. CP86–435–000, pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Northern requests authorization to transport, on an interruptible basis, up to a maximum of 70,000 MMBtu of natural gas per day for Exxon from receipt points located in Oklahoma, Kansas and Texas, to delivery points located in Texas, Kansas, Oklahoma, Iowa, Illinois, Minnesota and Nebraska. Northern anticipates transporting 52,500 MMBtu of natural gas on an average day and an annual volume of 25,550,000 MMBtu.

Northern states that the transportation of natural gas for Exxon commenced May 2, 1989, as reported in Docket No. ST89–3539–000, for a 120-day period pursuant to § 284.223(a) of the Commission's Regulations and the blanket certificate issued to Northern in Docket No. CP86–435–000.

Comment date: July 24, 1989, in accordance with Standard Paragraph G at the end of this notice.

8. ANR Pipeline Company

[Docket No. CP89–1565–000]

Take notice that on June 2, 1989, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP89–1565–000 on a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to provide an interruptible transportation service for American Central Gas Marketing Company (ACGM), a marketer, under ANR's blanket certificate issued in Docket No. CP88–532–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open for public inspection.

ANR states that it would transport, on an interruptible basis, up to of 50,000 dth of natural gas per day for ACGM. ANR states that it would receive the gas at an existing point of receipt in the states of Kansas, Louisiana, Oklahoma, and Texas, and the offshore Texas and Louisiana gathering areas and redeliver the gas for the account of ACGM at existing interconnections located in the state of Wisconsin. ANR indicates that the total volume of gas to be transported for ACGM on a peak day would be 50,000 dth; on an average day would be 50,000 dth; and on an annual basis would be 18,250,000 dth. ANR indicates it would perform the proposed transportation service for ACGM pursuant to a service agreement dated November 12, 1988, between ANR and ACGM.

ANR states that it commenced the transportation of natural gas for ACGM on April 20, 1988, at Docket No. ST89–3520–000 for a 120-day period pursuant to § 284.223(a)(1) of the Commission's Regulations. ANR indicates that it proposes no new facilities in order to provide this transportation service.

Comment date: July 24, 1989, in accordance with Standard Paragraph G at the end of this notice.

9. El Paso Natural Gas Company

[Docket No. CP89–1558–000]

Take notice that on June 2, 1989, El Paso Natural Gas Company, (El Paso) P.O. Box 1492, El Paso, Texas 7998, filed in Docket No. CP89–1558–000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas under its blanket authorization issued in Docket No. CP88–433–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

El Paso proposes to transport natural gas on an interruptible basis for Apache Corporation (Apache). El Paso explains that the service commenced April 21, 1989, under § 284.223(a) of the Commission's Regulations, as reported in Docket No. ST89–3483. El Paso proposes to transport on a peak day up to 105,000 MMBtu; on an average day up to 52,750 MMBtu; and on an annual basis up to 19,253,750 MMBtu. El Paso proposes to receive the subject gas from various points of receipt on its system and redeliver the gas in the states of Texas, New Mexico, Oklahoma, and Colorado.

Comment date: July 24, 1989, in accordance with Standard Paragraph G at the end of this notice.

10. Paiute Pipeline Company

[Docket No. CP89–1543–000]

Take notice that on May 31, 1989, Paiute Pipeline Company (Paiute), P.O. Box 94197, Las Vegas, Nevada 89193–4197, filed in Docket No. CP89–1543–000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide an interruptible service for Basic Incorporated (Basic, Inc.) under the blanket certificate issued in Docket No. CP87–309–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Paiute states that pursuant to a Transportation Agreement dated November 14, 1988, under its Rate Schedule IT–1, it proposes to transport up to 2,500 MMBtu per day of natural gas for Basic, Inc. from the point of receipt at the interconnection between the facilities of Paiute and Northwest Pipeline Corporation at the Idaho-Nevada border. Paiute will transport

and redeliver the gas to Basic, Inc. at the Basic, Inc. delivery point located in Churchill County, Nevada.

Paiute also states that it will transport approximately 1,045 MMBtu on an average day and approximately 381,000 MMBtu on annual basis.

Paiute further states it commenced this service April 1, 1989, as reported in Docket No. ST89-3316-000.

Comment date: July 24, 1989, in accordance with Standard Paragraph G at the end of this notice.

11. ANR Pipeline Company

[Docket No. CP89-1561-000]

Take notice that on June 2, 1989, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michagan 48243, filed in Docket No. CP89-1561-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 284.223) for authorization to perform an interruptible transportation service for Texpar Energy, Inc., a marketer, under ANR's blanket certificate issued in Docket No. CP88-532-000, pursuant to section 7(c) of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

ANR states that pursuant pursuant to an agreement dated April 5, 1989, it proposes to receive up to 50,000 dt equivalent of natural gas per day from specified points located in Kansas, Louisiana, Texas, Oklahoma, and Offshore Texas and Louisiana, and redeliver the gas at specified points located in Wisconsin. ANR estimates that the peak day and average day volumes would be 50,000 dt equivalent of natural gas and that the annual volumes would be in 18,250,000 dt equivalent of natural gas. It is stated that on April 20, 1989, ANR commenced a 120-day transportation service to Texpar under § 285.223(a) as reported in Docket No. ST89-2519-000.

ANR also states that no facilities need be constructed to implement the service. It is indicated that ANR would provide the service for a primary term expiring on March 31, 1992, but would continue the service on a month to month basis until terminated by either party upon thirty days prior written notice to the other party. ANR proposes to charge the rates and abide by the terms and conditions of its Rate Schedule ITS.

Comment date: July 24, 1989, in accordance with Standard Paragraph G at the end of this notice.

12. ANR Pipeline Company

[Docket No. CP89-1564-000]

Take notice that on June 2, 1989, ANR Pipeline Company (ANR) filed in Docket No. CP89-1564-000 a request puruant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act, to transport natural gas under its blanket certificate issued in Docket No. CP88-532-000 on behalf of Centran Corp. (Centran), a marketer, all as more fully set forth in the request of file with the Commission and open to public inspection.

ANR indicates that service commenced April 15, 1989, as reported in Docket No. ST89-3525-000 and estimates the volumes transported to be 5,000 MMBtu per day on a peak day and average day, plus 1,825,000 MMBtu on an annual basis for Centran.

ANR states that no new facilities are to be constructed.

Comment date: July 2, 1989, in accordance with Standard Paragraph G at the end of this notice.

13. Mobil Oil Exploration & Producing Southeast Inc., Mobil Producing Texas & New Mexico Inc., and Mobil Exploration and Producing North America Inc.

[Docket No. CI86-514-003, Docket No. CI88-57-002]

Take notice that on May 30, 1989, Mobil Oil Exploration & Producing Inc., Mobil Producing Texas & New Mexico Inc. and Mobil Exploration and Producing North America Inc. (Mobil) of 12450 Greenspoint Drive, Houston, Texas 77060, filed an application pursuant to section 7 of the Natural Gas Act and the Federal Energy Regulatory Commission's (Commission) regulations thereunder for amendment of the blanket certificates with pregranted abandonment authorizing sales of uncommitted gas previously issued in Docket Nos. CI86-514-002 and CI88-57-001 to change the reporting requirements from a quarterly basis to an annual basis, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Comment date: June 27, 1989 in accordance with Standard Paragraph J at the end of this notice.

14. Northern Natural Gas Company Division of Enron Corp.

[Docket No. CP89-1539-000]

Take notice that on May 30, 1989, Northern Natural Gas Company, Division of Enron Corp. (Northern), 1400 Smith Street, Houston, Texas 77002, filed in Docket No. CP89-1539-000 a request pursuant to Northern's blanket authority granted on September 1, 1982, in Docket No. CP82-401-000 and §§ 157.205 and 157.212, of the Commission's Regulations (18 CFR 157.205 and 157.212) for authority to realign certain volumes for Iowa Electric Light and Power Company (Iowa Electric), all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Northern is proposing, at Iowa Electric's request, to realign CD-1 firm sales service by increasing firm entitlements for five communities and reducing firm entitlements for one community served by Iowa Electric. The proposed realignment of entitlements will not affect the total level of firm sales service provided by Northern to Iowa Electric under Rate Schedule CD-1.

Comment date: July 24, 1989, in accordance with Standard Paragraph G at the end of this notice.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest ot the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Standard Paragraph

J. Any person desiring to be heard or make any protest with reference to said filings should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., 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, 385.215). 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 in any proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be

unnecessary for the applicant to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 89-14064 Filed 6-13-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP89-1432-000 et al.]

Eastern Shore Natural Gas Co. et al.; Natural Gas Certificate Filings

June 6, 1989.

Take notice that the following filings have been made with the Commission:

1. Eastern Shore Natural Gas Company

[Docket No. CP89-1432-000]

Take notice that on May 18, 1989, Eastern Shore Natural Gas Company (Eastern Shore), P.O. Box 615, Dover, Delaware 19903-0615, filed in Docket No. CP89-1432-000, a request pursuant to §§ 157.205, 157.211 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.211 and 157.212) for authorization to construct and operate a sales tap and thereby, establish a new point of delivery for the Delaware Division of Chesapeake Utilities Corporation (Chesapeake Utilities), a local distribution company, under Eastern Shore's blanket certificate issued in Docket No. CP83-40-000, pursuant to Section 7 the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Eastern Shore proposes to establish the sales tap at a point located 400 feet south of Southern Boulevard in Wyoming, Delaware around a railroad right-of-way. Chesapeake Utilities has informed Eastern Shore that the gas would be used to meet its system supply requirements and that it intends to resale the gas to its residential and commercial customers. Peak day and annual deliveries are estimated to be 260 MMBtu and 29,907 MMBtu, respectively, while an average day's delivery is expected to be 82 MMBtu. Eastern Shore states that the volumes delivered would be within the certificated entitlement of Chesapeake Utilities. Finally, Eastern Shore asserts that its tariff does not prohibit additional delivery points and that the proposed sales tap would have an insignificant impact on its peak day and annual deliveries.

Comment date: July 21, 1989, in accordance with Standard Paragraph G at the end of this notice.

2. Panhandle Eastern Pipe Line Company

[Docket No. CP89-1490-000]

Take notice that on May 23, 1989, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77251-1642, filed in Docket No. CP89-1490-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas for Interstate Gas Marketing, Inc. (IGM), a marketer of natural gas, under Panhandle's blanket certificate issued in Docket No. CP86-585-000, pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Pursuant to a gas transportation agreement dated December 9, 1989, Panhandle requests authority to transport up to 7,000 Dt. of natural gas per day, on an interruptible basis, on behalf of IGM. Panhandle states that the agreement provides for it to receive gas from various existing points of receipts along its system and deliver the gas, less fuel used and unaccounted for line loss, to Columbia Gas in Paulding, Drake, and Lucas Counties, Ohio. IGM has informed Panhandle that it expects to have 5000 Dt. transported on an average day and, based thereon, estimates that the annual transportation quantity would be 1,825,000 Dt. Panhandle advises that the transportation service commenced on April 1, 1989, as reported in Docket No. ST89-3296, pursuant to § 284.223 of the Commission's Regulations.

Comment date: July 21, 1989, in accordance with Standard Paragraph G at the end of this notice.

3. United Gas Pipe Line Company

[Docket No. CP89-1507-000]

Take notice that on May 24, 1989, United Gas Pipe Line Company (United), Post Office Box 1478, Houston, Texas 77251-1478, pursuant to Section 7(b) of the Natural Gas Act, as amended, filed in Docket No. CP89-1507-000 an application for permission and approval to abandon the transportation service it provides to Texas Eastern Transmission Corporation (Texas Eastern) under a gas transportation contract which expired November 1, 1988, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

United was authorized to transport up to 75,000 Mcf of natural gas per day for Texas Eastern, however during the 12 month period ending November 1, 1988, United states it has not transported any gas in Texas Eastern's behalf. Accordingly the parties have executed a letter agreement to terminate the transportation service performed pursuant to United's Rate Schedule X-14.

Comment date: June 27, 1989, in accordance with Standard Paragraph F at the end of this notice.

4. Tennessee Gas Pipeline Company

[Docket No. CP89-1520-000]

Take notice that on May 26, 1989, Tennessee Gas Pipeline Company (Tennessee), P.O. Box 2511, Houston, Texas 77252, filed in Docket No. CP89-1520-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 284.223) for authorization to provide a transportation service for Interstate Gas Marketing, Inc. (Interstate) a marketer, under Tennessee's blanket certificate issued in Docket No. CP87-115-000 on June 18, 1987, pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Tennessee proposes, pursuant to a transportation agreement dated April 7, 1989, to transport natural gas for Interstate from points of receipt located in the states of Texas and Louisiana. It is stated that the point of delivery is located in the state of New York. Tennessee further states that under the contract the maximum daily and average daily quantities are 1,060 dekatherms (dt) and 386,900 dt on an annual basis. Tennessee states that service under § 284.223(a) commenced May 1, 1989, as reported in Docket No. ST89-3528-000 filed May 15, 1989.

Comment date: July 21, 1989, in accordance with Standard Paragraph G at the end of this notice.

5. Northwest Pipeline Corporation

[Docket No. CP89-1532-000]

Take notice that on May 30, 1989, Northwest Pipeline Corporation (Northwest), 295 Chipeta Way, Salt Lake City, Utah 84108, filed in Docket No. CP89-1532-000 a request pursuant to Section 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide an interruptible transportation service for Simpson Tacoma Kraft Company (Simpson Tacoma), an end user, under the blanket certificate issued in Docket No. CP86-578-000, pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Northwest states that pursuant to a transportation agreement dated April 4, 1989, as amended April 4, 1989, under its Rate Schedule TI-1, it proposes to transport up to 5,755.5 MMBtu per day equivalent of natural gas for Simpson Tacoma. Northwest states that it would transport the gas through its system from any transportation receipt point on its system to any transportation delivery point on its system, as defined in the amendment.

Northwest advises that service under § 284.223(a) commenced April 19, 1989, as reported in Docket No. ST89-3582 (filed May 19, 1989). Northwest further advises that it would transport 100 MMBtu on an average day and 36,500 MMBtu annually.

Comment date: July 21, 1989, in accordance with Standard Paragraph G at the end of this notice.

6. Paiute Pipeline Company

[Docket No. CP89-1542-000]

Take notice that on May 31, 1989, Paiute Pipeline Company (Paiute), P.O. Box 94197, Las Vegas, Nevada 89193-4197, filed in Docket No. CP89-1542-000 a request pursuant to Section 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide an interruptible transportation service for Caesars Tahoe, an end-user, under the blanket certificate issued in Docket No. CP87-309-000, pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Paiute states that pursuant to a transportation agreement dated March 20, 1989, under its Rate Schedule IT-1, it proposes to transport up to 500 MMBtu per day equivalent of natural gas for Caesars Tahoe. Paiute states that it would transport the gas through its system from the existing interconnection between the facilities of Paiute and Northwest Pipeline Corporation at the Idaho-Nevada border, and would redeliver the gas to Southwest Gas Corporation-Northern Nevada, a local distribution company, for the account of Caesars Tahoe at the Stateline City Gate No. 1 delivery point located in Douglas County, Nevada.

Paiute advises that service under § 284.223(a) commenced March 22, 1989, as reported in Docket No. ST89-3131. Paiute further advises that it would transport 304 MMBtu on an average day and 111,000 MMBtu annually.

Comment date: July 21, 1989, in accordance with Standard Paragraph G at the end of this notice.

7. United Gas Pipe Line Company

[Docket No. CP89-1530-000]

Take notice that on May 26, 1989, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251-1478, filed in Docket No. CP89-1530-000, a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) and the Natural Gas Policy Act (18 CFR 2184.223) for authorization to provide a transportation service for LaSER Marketing Company (LaSER), a marketer of natural gas, under United's blanket certificate issued in Docket No. CP88-6-000 pursuant to section 7(c) of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

United proposes to transport, on an interruptible basis, up to 618,000 MMBtu of natural gas equivalent per day for LaSER pursuant to a transportation agreement dated October 1, 1988, as amended on March 31, 1989, between United and LaSER. United would receive natural gas at various receipt points in Louisiana, Alabama, Texas and Mississippi and redeliver equivalent volumes of gas, less fuel and company used gas, at various delivery points in Louisiana, Mississippi, Texas, Florida and Alabama.

United further states that the estimated average daily and annual quantities would be 618,000 MMBtu and 74,160,000 MMBtu respectively. Service under § 284.223(a) commenced April 21, 1989, as reported in Docket No. ST89-3496-000, it is stated.

Comment date: July 21, 1989, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirments of the Commission's Rules of Practices and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). 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.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file purusant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and purusant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 89-14063 Field 6-13-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP89-1536-000 et al.]

Trunkline Gas Co. et al.; Natural Gas Certificate Filings

June 7, 1989.

Take notice that the following filings have been made with the Commission:

1. Trunkline Gas Company

[Docket No. CP89-1536-000]

Take notice that on May 30, 1989, Trunkline Gas Company (Trunkline), P.O. Box 1642, Houston, Texas, 77251-1642, filed in Docket No. CP89-1536-000 a request pursuant to § 157.205 of the Commission's Regulations for authorization to provide transportation

service on behalf of Ultramar Oil & Gas Limited (Ultramar), under Trunkline's blanket certificate issued in Docket No. CP86–586–000, pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Trunkline requests authorization to transport, on an interruptible basis, up to a maximum of 2,000 dt of natural gas per day for Ultramar from receipt points located in Illinois, Louisiana, Tennessee and Texas to a delivery point located in St. Mary Parish, Louisiana. Trunkline anticipates transporting, on an average day 1,000 dt and an annual volume of 365,000 dt.

Trunkline states that the transportation of natural gas for Ultramar commenced April 6, 1989, as reported in Docket No. ST89–3288–000, for a 120-day period pursuant to § 284.223(a) of the Commission's Regulations and the blanket certificate issued to Trunkline in Docket No. CP86–586–000.

Comment date: July 24, 1989, in accordance with Standard Paragraph G at the end of this notice.

2. Carnegie Natural Gas Company

[Docket No. CP89–1549–000]

Take notice that on May 31, 1989, Carnegie Natural Gas Company (Carnegie), 800 Regis Avenue, Pittsburgh, Pennsylvania 15236, filed in Docket No. CP89–1549–000 a request pursuant to §§ 157.205 and 284.223 (18 CFR 157.205 and 284.223) of the Commission's Regulations under the Natural Gas Act, for authority to provide interruptible transportation service for USS Division of USX Corp. (USX), under Carnegie's blanket transportation certificate issued by Commission order October 31, 1988, in Docket No. CP88–363–000 all as more fully set forth in the application which is on file with the Commission and open to public inspection.

USX indicates that pursuant to a transportation agreement dated April, 1989, it proposes to transport gas for USX from receipt points in Pennsylvania and redeliver the gas to various other points in Pennsylvania.

Carnegie states that it proposes to transport up to 40,000 Dth of gas per peak day, 10,000 Dth of gas per average day and approximately 3,650,000 Dth of gas annually. USX states that the transportation service commenced under 120-day automatic authorization of § 284.223(a) of the Commission's Regulations on May 1, 1989. USX notified the Commission of the commencement of the transportation service on May 11, 1989, in Docket No. ST89–3485–000.

Comment date: July 24, 1989, in accordance with Standard Paragraph G at the end of this notice.

3. United Gas Pipe Line Company

[Docket No. CP89–1528–000]

Take notice that on May 26, 1989, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251–1478, filed in Docket No. CP89–1528–000 a request, pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205), for authorization to provide interruptible transportation service on behalf of LL&E Gas Marketing, Inc. (LL&E), a marketer of natural gas, under United's blanket certificate issued in Docket No. CP88–6–000, pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open for public inspection.

Pursuant to a gas transportation agreement dated October 3, 1988, United proposes to transport up to 20,600 MMBtu of natural gas per day, on an interruptible basis, for LL&E. United states that such gas would be transported from an existing receipt point located in Vermilion Parish, Louisiana to existing delivery points in Rapides Parish, Louisiana. LL&E has informed United that it expects to have the full 20,600 MMBtu transported on an average day and, based thereon, estimates that the annual transportation quantity would be 7,519,000 MMBtu. United advises that the transportation service commenced on May 5, 1989, as reported in Docket No. ST89–3488–000, pursuant to § 284.223(a) of the Commission's Regulations.

Comment date: July 24, 1989, in accordance with Standard Paragraph G at the end of this notice.

4. Tennessee Gas Pipeline Company

[Docket No. CP89–1545–000]

Take notice that on May 31, 1989, Tennessee Gas Pipeline Company (Tennessee), P.O. Box 2511, Houston, Texas 77252, filed in Docket No. CP89–1545–000, a request pursuant to Section 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas, on an interruptible basis, for BP Gas Inc. (BP), a producer, under Tennessee's blanket certificate issued in Docket No. CP87–115–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Tennessee states that pursuant to a transportation agreement dated April 26, 1989, as amended, it would transport natural gas for BP from points of receipt located offshore Louisiana and in the states of Alabama, Louisiana, Mississippi and Texas to multiple delivery points located off Tennessee's system. Tennessee further states that the location of the ultimate delivery points of the natural gas would be in the states of Alabama, Louisiana, Mississippi and Tennessee. Tennessee indicates that the peak day, average day and annual volumes that would be transported for BP would be 10,000 dekatherms, 100,000 dekatherms and 36,500,000 dekatherms, respectively.

Tennessee states that it commenced the transportation of natural gas for BP on May 2, 1989, as reported in Docket No. ST89–3646, for a 120-day period pursuant to § 284.223(a) of the Regulations (18 CFR 284.223(a)).

Comment date: July 24, 1989, in accordance with Standard Paragraph G at the end of this notice.

5. United Gas Pipe Line Company

[Docket No. CP89–1551–000]

Take notice that on June 1, 1989, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251–1478, filed in Docket No. CP89–1551–000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of PSI, Inc. (PSI), under its blanket authorization issued in Docket No. CP88–6–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

United would perform the proposed interruptible transportation service for PSI, a marketer of natural gas, pursuant to a gas transportation agreement dated March 14, 1988 (contract no. T1–21–2125/02916, ref# 4856). The term of the transportation agreement is for a primary term of one month from the date of first delivery and shall continue for successive one month terms thereafter until terminated. United proposes to transport on a peak day up to 154,500 MMBtu; on an average day up to 154,500 MMBtu; and on an annual basis 56,392,500 MMBtu for PSI. United proposes to receive the subject gas from exiting points of receipt on its system for transportation and redelivery to PSI at an existing points of delivery. The proposed rate to be charged is contained in United's currently effective ITS rate schedule, or such other rates as may be

just and reasonable and acceptable to United.

It is explained that the proposed service is currently being performed pursuant to the 120-day self implementing provision of § 284.223(a)(1) of the Commission's Regulations. United commenced such self-implementing service on May 1, 1989, as reported in Docket No. ST89–3537–000.

Comment date: July 24, 1989, in accordance with Standard Paragraph G at the end of this notice.

6. United Gas Pipe Line Company

[Docket No. CP89–1556–000]

Take notice that on June 1, 1989, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251–1478, filed in Docket No. CP89–1556–000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide an interruptible transportation service for OXY USA, INC. (OXY), a producer, under the blanket certificate issued in Docket No. CP88–6–000, pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

United states that pursuant to a transportation agreement dated February 28, 1989, under its Rate Schedule ITS, it proposes to transport up to 10,300 MMBtu per day equivalent of natural gas for OXY. United states that it would transport the gas from receipt points as shown in Exhibit "A" of the transportation agreement and would deliver the gas to a delivery point shown in Exhibit "B" of the agreement.

United advises that service under § 284.223(a) commenced May 1, 1989, as reported in Docket No. ST89–3534–000 (filed May 15, 1989). United further advises that it would transport 10,300 MMBtu on an average day and 3,759,500 MMBtu annually.

Comment date: July 24, 1989, in accordance with Standard Paragraph G at the end of this notice.

7. Upper Cumberland Gas Utility District of Cumberland County, Tennessee

[Docket No. CP89–1496–000]

Take notice that on May 23, 1989, Upper Cumberland Gas Utility District of Cumberland County, Tennessee (Applicant), P.O. Box 722, Crossville, Tennessee 38555, filed in Docket No. CP89–1496–000 an application pursuant to Section 7(a) of the Natural Gas Act for an order directing East Tennessee Natural Gas Company (ETNG) to establish an interconnection of its facilities with those proposed by Applicant and to sell and deliver up to 1,354 Mcf of natural gas per day for the first year and up to 1,568 Mcf of natural gas per day by the third year for resale and distribution to approximately 1,444 customers in the proposed service area, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant explains that the proposed service would be provided to an area within Cumberland County, Tennessee, north of Interstate I–40. Applicant estimates that by the third year of service there would be 1,269 residential customers, 82 mobile homes, 20 churches and 73 small businesses.

Applicant proposes to receive service from one meter station to be built by ETNG and located at Clarkrange, Tennessee, where the East Tennessee Natural Gas transmission main crosses Highway 127. This location is approximately 5,000 feet north of the Fentress County-Cumberland County Line.

Comment date: June 28, 1989, in accordance with the first subparagraph of Standard F at the end of this notice.

8. Questar Pipeline Company

[Docket No. CP89–1515–000]

Take notice that on May 26, 1989, Questar Pipeline Company (Questar Pipeline), 79 South State Street, Salt Lake City, Utah 84111, filed in Docket No. CP89–1515–000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing certain modifications at its Chalk Underground Storage Reservoir (Chalk Creek) located in Summit County, Utah. The modifications involve the conversion of the Texola Federal L No. 1 (Texola) observation well to an injection/withdrawal well and the conversion of 600 linear feet of four-inch diameter pipeline to an injection/withdrawal lateral, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Chalk Creek is an aquifer-type natural gas storage reservoir which was authorized by the Commission under orders issued in Docket No. CP75–33 on August 20, 1975, and September 22, 1983. It is used as a peak-shaving facility serving the Salt Lake City, Utah, market area of Mountain Fuel Supply Company (MFS), Questar Pipeline's local distribution company affiliate. It is also used as an emergency gas supply facility to sustain deliveries to MFS in the event of natural disasters or equipment malfunctions upstream of Chalk Creek.

Questar Pipeline states that the Government No. 1 well is the only injection/withdrawal well in the Chalk Creek storage reservoir, and that the conversion of the Texola well to an injection/withdrawal well will allow Questar Pipeline to increase the maximum withdrawal rate from Chalk Creek from 31,700 Mcf per day to 50,000 Mcf per day. Questar Pipeline states that this increased volume is still well below the maximum authorized daily withdrawal rate of 70,000 Mcf per day.

Comment date: June 28, 1989, in accordance with Standard Paragraph F at the end of this notice.

9. Great Lakes Gas Transmission Company

[Docket Nos. CP89–1452–000, and CP86–25–000]

Take notice that on May 19, 1989, Great Lakes Gas Transmission Company (Great Lakes), 2100 Buhl Building, Detroit, Michigan 48226, filed in Docket No. CP89–1452–000 pursuant to Section 7(c) of the Natural Gas ACT (NGA) an application to amend the order issued December 27, 1985 in Docket No. CP86–25–000, so as to recommence the transportation arrangements and increase the daily contract quantity. Great Lakes was authorized to transport up to 13,000 Mcf of natural gas per day for TransCanada Pipeline Limited (TransCanada) from a point on the United States-Canadian International Boundary where the facilities of Great Lakes interconnect with the facilities of TransCanada near Emerson, Manitoba, to a point where the facilities of Great Lakes interconnect with those of Michigan Consolidated Gas Company (MichCon) near Belle River Mills, Michigan. The volumes to be transported by Great Lakes are an integral part of an energy exchange between Esso Chemical Company (Esso), a Division of Imperial Oil Limited (Imperial Oil), and MichCon.

MichCon and Esso have requested that the transportation and deliveries of these volumes at the Belle River Mills delivery point resume as soon as possible and that the daily contract quantity be increased by 37,000 Mcf per day to provide MichCon and Esso increased flexibility to prevent large exchange balances from occurring. To implement this request, Great Lakes and TransCanada have entered into an Amendatory Agreement, dated April 27, 1989, which provides for recommencement of the subject transportation in a quantity not to exceed 50,000 Mcf per day, consistent with MichCon's import authorization. The requested term of the service is for

a period ending January 23, 1992. Prior Commission authorization to provide this service in Docket CP86–25–000, terminated on January 23, 1989.

Comment date: June 28, 1989, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

10. Pan National Gas Sales, Inc.

[Docket No. CP89–1499–000]

Take notice that on May 24, 1989, Pan National Gas Sales, Inc (Pan National) P.O. Box 1642, Houston, Texas 77251–1642, filed in Docket No. CP89–1499–000 an application pursuant to Section 4 and 7 of the Natural Gas Act (NGA) and the regulations thereunder for a certificate of public convenience and necessity authorizing (a) sales made by Pan National of natural gas subject to the Commission's jurisdiction under the NGA for resale in interstate commerce, and (b) pregranted abandonment of all such sales for which authority is requested therein. Pan National states the volumes of natural gas proposed to be sold will be purchased as liquified natural gas (LNG) by Pan National from Sonatrading, an affiliate of Sonatrach, the state oil and gas company of Algeria. Pan National indicates the gas will then be transported to the United States in LNG tankers to be supplied by Sonatrach and Pan Transport, Inc. received and regasified for Pan National at Lake Charles, Louisiana terminal of Trunkline LNG Company (TLC), and marketed by Pan National at competitive prices under spot, intermediate or longer term arrangements consistent with market requirements for peaking or base load requirements.

Pan National states that this application is submitted to implement a new proposal to make LNG available to U.S. gas purchasers under a new pricing and contract structure which is intended to be fully market responsive. Specifically, Pan National requests certificate authorization to sell the imported volumes of LNG that will be supplied by Sonatrading under a new contract and resold by Pan National in specific transaction to be negotiated subsequently with customers.

Regasified LNG will be marketed by Pan National through negotiation with individual customers in various segments of the increasingly "unbundled" U.S. gas markets under contract terms responsive to then current market conditions. The basic provisions of each prospective transaction, including price, volume and terms, will be subject to confirmation by Sonatrading, which will be paid FOB volumes utilizing a price which is a percentage of the average selling price received from Pan Nationals customers.

Additionally, Pan National has contracted for Ocean transportation of LNG and U.S. terminal services under similarly flexible arrangements. Pan National will be obligated to pay at a minimum the incremented additional costs incurred in providing these services. In the case of Ocean transportation provided by Pan-Transport, and terminal service provided by TLC, additional compensation will be provided to the extent that total revenues received by Pan National exceed the sum of the FOB cost of LNG, the incremental service costs and Pan Nationals' out-of-pocket costs. Thus, this proposal has been structured to accommodate change in market condition and to eliminate the necessity for inflexible import and regasification commitments to take-or-pay for purchases or services. Accordingly, all LNG imported by Pan National will be sold in the U.S. market at prices and on terms dictated by prevailing market conditions.

The purchase agreement Pan National has with Sonatrading is for a total volume of 3,300 million MMBTU over a period of up to 20 years. Pan National has already obtained the necessary authorization to import the proposed sales volumes.

Comment date: June 28, 1989, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

11. Southern Natural Gas Company

[Docket No. CP89–1544–000]

Take notice that on May 31, 1989, Southern Natural Gas Company (Southern), Post Office Box 2563, Birmingham, Alabama 35202–2563 filed in Docket No. CP89–1544–000 a request pursuant to § 157.205 of the Commission's Reglations for authorization to transport natural gas on behalf of Union Texas Products Corporation (Union Texas), an end-user of natural gas, under Southern's blanket certificate issued in Docket No. CP88–316–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Southern proposes to transport, on an interruptible basis, up to 2,000 MMBtu equivalent of natural gas on a peak day, 1,000 MMBtu equivalent on an average day, and 365,000 MMBtu equivalent on an annual basis for Union Texas. It is stated that Southern would receive the gas at existing points on Southern's system in Louisiana, offshore Louisiana, Texas, offshore Texas, Mississippi, and Alabama. It is stated that Southern would deliver equivalent volumes to Union Texas' processing plant in St. Bernard Parish, Louisiana. It is asserted that Southern would utilize existing facilities and that no construction of additional facilities would be required. It is explained that the transportation service commenced April 2, 1989, under the automatic authorization provisions of § 284.223 of the Commission's Regulations, as reported in Docket No. ST89–3038.

Comment date: July 24, 1989, in accordance with Standard Paragraph G at the end of this notice.

12. Panhandle Eastern Pipe Line Company

Docket No. CP89–1533–000]

Take notice that on May 30, 1989, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77251–1642, filed in Docket No. CP89–1533–000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 284.223) for authorization to perform an interruptible transportation service for Tarpon Gas Marketing Limited (Tarpon), a marketer, under Panhandle's blanket certificate issued in Docket No. CP86–585–000, pursuant to Section 7(c) of the Natural Gas Act, all as more fully set forth in the request which is one file with the commission and open to public inspection.

Panhandle states that pursuant to a transportation agreement dated March 23, 1989, it proposes to receive up to 100,000 dt equivalent of natural gas per day from Tarpon at specified receipt points located in the states of Colorado, Kansas, Illinois, Michigan, Ohio, Oklahoma, and Texas and redeliver the gas at specified points in Wayne Country, Michigan. Panhandle estimates that the peak day volumes, average day volumes, and annual volumes would be 100,000 dt equivalent of natural gas, 75,000 dt equivalent of natural gas, and 27,375,000 dt equivalent of natural gas, respectively. It is stated that on April 1, 1989, Panhandle commenced a 120-day transportation service for Tarpon under § 284.223(a) as reported in Docket No. ST89–3610–000.

Panhandle further states that no facilities need be constructed to implement the service. Panhandle states that the service would continue on a month to month basis until terminated by either Panhandle or Tarpon upon at least thirty days written notice to the other. Panhandle proposes to charge

rates and abide by the terms and conditions of its Rate Schedule PT.

Comment date: July 24, 1989, in accordance with Standard Paragraph G at the end of this notice.

13. United Gas Pipe Line Company

[Docket No. CP89-156-000]

Take notice that on May 31, 1989, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251-1478, filed in Docket No. CP89-1546-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations for authorization to transport natural gas on behalf of Energy Transportation Management, Inc. (ETM), a marketer of natural gas, under United's blanket certificate issued in Docket No. CP88-6-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

United proposes to transport on an interruptible basis up to 3,090 MMBtu of natural gas on a peak day, 3,090 MMBtu on an average day and 1,127,850 MMBtu on an annual basis for ETM. United states that it would perform the transportation service for ETM under United's Rate Schedule ITS. United indicates that it would transport the gas from receipt points in Terrebonne and Webster Parishes, Louisiana and Shelby County, Texas, to delivery points located in Terrebonne Parish, Louisiana and Jackson and Rankin Counties, Mississippi.

It is explained that the service commenced April 1, 1989, under the automatic authorization provisions of § 284.223 of the Commission's Regulations, as reported in Docket No. ST89-3535. United indicates that no new facilities would be necessary to provide the subject service.

Comment date: July 24, 1989, in accordance with Standard Paragraph G at the end of this notice.

14. Valley Gas Transmission, Inc.

[Docket No. CP89-1531-000]

Take notice that on May 30, 1989, Valley Gas Transmission, Inc. (Valley), Suite 700, 1301 McKinney Street, Houston, TX 77010, filed in Docket No. CP89-1531-000 an application pursuant to Section 7(b) of the Natural Gas Act for an order permitting and approving abandonment of sales service provided to Tennessee Gas Pipeline Company (Tennessee) under Rate Schedule No. 1 and Rate Schedule No. X-1, and to Entex, a division of Arkla, Inc. (Entex) under Rate Schedule No. 12, all as more fully set forth in the application on file with the Commission and open to public inspection.

Valley states that the sales service provided to Tennessee was certificated pursuant to requests for authorization in Docket Nos. G-19618 and CP83-458-000 and under Rate Schedule No. 1 and X-1, respectively. Valley also states that the sales service provided to Entex was certificated pursuant to a request for authorization in Docket No. CP85-891-000 under Rate Schedule No. 12.

It is stated that on January 30, 1989, and on May 1, 1989, Tennessee filed with the Commission notifications that it had abandoned its purchases in the aforementioned dockets under the gas sales contract pursuant to the provisions of Order No. 490 and 18 CFR 157.21. Since Entex, a local distributor, is not under the Commission's jurisdiction it need not receive Commission authorization to abandon its purchase, it is stated.

Valley states that it seeks to abandon these services and remove these rate schedules from its tariff inasmuch as these contracts have been terminated by mutual agreement of Tennessee and Valley and Extex and Valley, and the three services are no longer taking place, and cannot take place in the future since Valley states that it is no longer purchasing gas or making sales.

Comment date: June 28, 1989 in accordance with Standard Paragraph F at the end of the notice.

15. Natural Gas Pipeline Company of America

[Docket No. CP89-1521-000]

Take notice that on May 26, 1989, Natural Gas Pipeline Company of America (Natural), 701 East 22nd Street, Lombard, Illinois 60148, filed in Docket No. CP89-1521-000 a request pursuant to § 157.205 of the Commission's Regulations for authorization to transport natural gas on behalf of Exxon Corporation (Exxon), a producer of natural gas, under Natural's blanket certificate issued in Docket No. CP86-582-000, pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Natural proposes to transport on an interruptible basis up to 30,000 MMBtu of natural gas on a peak day plus excess volumes pursuant to the overrun provisions of its Rate Schedule ITS, 30,000 MMBtu on an average day and 10,950,000 MMBtu on an annual basis for Exxon. It is stated that Natural would receive the gas for Exxon's account at existing receipt points in Louisiana, and would deliver equivalent volumes at existing points on Natural's system in Louisiana. It is asserted that the transportation service would be affected using existing facilities and would require no construction of additional facilities. It is explained that the transportation service commenced March 29, 1989, under the automatic authorization provisions of § 284.223 of the Commission's Regulations, as reported in docket No. ST89-3626.

Comment date: July 24, 1989, in accordance with Standard Paragraph G at the end of this notice.

16. Union Gas Pipe Line Company

[Docket No. CP89-1541-000]

Take notice that on May 31, 1989, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251-1478, filed in Docket No. CP89-1541-000 a request pursuant to § 157.205 of the Commission's Regulations for authorization to provide transportation service on behalf of Seagull Marketing Services, Inc. (Seagull), a marketer of natural gas, under United's blanket certificate issued in Docket No. CP88-6-000, pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

United requests authorization to transport, on an interruptible basis, up to a maximum of 515,000 MMBtu of natural gas per day for Seagull from receipt points located in Mississippi, Louisiana, Texas and Alabama to delivery points located in Louisiana, Texas, Mississippi, Alabama and Florida. United anticipates transporting an annual volume of 187,975,000 MMBtu.

United states that the transportation of natural gas for Seagull commenced April 13, 1989, as reported in Docket No. ST89-3459-000, for a 120-day period pursuant to § 284.223(a) of the Commission's Regulations and the blanket certificate issued to United in Docket No. CP88-6-000.

Comment date: July 24, 1989, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said applications should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., 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) and the Regulations under the Natural Gas Act (18 CFR

157.10). 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.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules [18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 89-14065 Filed 6-13-89; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Cases Filed During the Week of April 28 Through May 5, 1989

During the week of April 28 through May 5, 1989, the appeals and applications for other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy. Submissions inadvertently omitted from an earlier list also have been included.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

June 6, 1989.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of April 28 through May 5, 1989]

Date	Name and location of applicant	Case No.	Type of submission
Apr. 24, 1989	Arco/Elwell's Arco, Hardin, KY	RR304-3	Request for modification/rescission. If granted: The April 17, 1989 Decision and Order issued to Elwell's Arco (Case No. RF304-95) would be modified, regarding the firm's application in the Atlantic Richfield Company refund proceeding.
Apr. 24, 1989	Arco/Edwards Arco, Hardin, KY	RR304-4	Request for modification/rescission. If granted: The April 17, 1989 Decision and Order issued to Edwards Arco (Case No. RF304-89) would be modified, regarding the firm's application in the Atlantic Richfield Company refund proceeding.
Apr. 24, 1989	Arco/Richard D. Thomason, Hardin, KY	RR304-15	Request for modification/rescission. If granted: The April 17, 1989 Decision and Order issued to Richard D. Thomason would be modified, regarding Mr. Thomason's application in the Atlantic Richfield Company refund proceeding.
May 1, 1989	Merle Oil Company, Hudson, NY	RR272-34	Request for modification/rescission. If granted: The February 2, 1989 Decision and Order issued to Merle Oil Company (Case No. RF272-74630) would be modified, regarding the firm's application in the crude oil refund proceeding.
May 1, 1989	Omega World Travel, Washington, DC	KFA-0282	Appeal of an information request denial. If granted: The April 4, 1989, Freedom of Information Request Denial issued by the Albuquerque Operations Office would be rescinded and Omega World Travel would receive access to information on the amount of rebate offered in Article 4 of Sandia National Laboratories bid #55-2000, awarded to Corporate Travel Consultants.
May 2, 1989	Knolls Active Project, Albany, NY	KFA-0283	Appeal of an information request denial. If granted: The March 27, 1989, Freedom of Information Request Denial issued by the Office of Naval Reactors would be rescinded and the Knolls Active Project would receive access to documents relating to activities at the Knolls Atomic Power Laboratory.
May 2, 1989	Knolls Active Project, Albany, NY	KFA-0284	Appeal of an information request denial. If granted: The March 24, 1989, Freedom of Information Request Denial issued by the Office of Naval Reactors would be rescinded and the Knolls Active Project would receive access to documents relating to activities at the Knolls Atomic Power Laboratory.
May 3, 1989	Gene De Fau, Old Bethpage, NY	KFA-0285	Appeal of an information request denial. If granted: The March 28, 1989, Freedom of Information Request Denial issued by the Office of Management and Information Systems, Economic Regulatory Administration would be rescinded and Mr. De Fau would receive access to information regarding the Northville Industries Corporation.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS—Continued

[Week of April 28 through May 5, 1989]

Date	Name and location of applicant	Case No.	Type of submission
May 5, 1989	Carol Balzer, Bakersfield, CA	KFA-0286	Appeal of an information request denial. If granted: Carol Balzer would receive access to all documents regarding the DOE grant award process concerning the KTM Logger.

REFUND APPLICATIONS RECEIVED WEEK OF APR. 28 THROUGH MAY 5, 1989

Date received	Name of refund proceeding/ name of refund applicant	Case No.
4/27/89	James River Corp. of VA.	RF315-5568
4/27/89	J & W Shell	RF315-5569
4/28/89 thru 5/5/89.	Crude Oil Refund Applications Received.	RF272-75462 thru RF272-75469
4/28/89 thru 5/5/89.	Murphy Oil Refund Applications Received.	RF309-1344 thru RF309-1348
4/28/89 thru 5/5/89.	Atlantic Richfield Refund Applications Received.	RF304-8992 thru RF304-9249
4/28/89 thru 5/5/89.	Exxon Oil Refund Applications Received.	RF307-9929 thru RF307-9939
4/28/89 thru 5/5/89.	Shell Oil Refund Applications Received.	RF315-5599 thru RF315-5687
5/1/89	Tucker's Peoples Station.	RF313-138
5/1/89	Cooper's Crown.	RF313-139
5/1/89	Russell Oil Company.	RF313-141
5/1/89	Vanguard Petroleum Corp..	RF139-206
5/1/89	Fox's Gulf	RF300-10797
5/1/89	Florin Center Gulf.	RF300-10798
5/1/89	Peoples Gas Station.	RF313-140
5/2/89	Brainerd Gulf Station.	RF300-10799
5/2/89	Kimber Petroleum Corp..	RF313-142
5/3/89	Morea's Crown	RF313-143
5/3/89	Gary E. Wygle	RF300-10800
5/4/89	Don Brown's Crown Gas Station.	RF313-144
5/4/89	Dan's Crown	RF313-145

[FR Doc. 89-14133 Filed 6-13-89; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPP-30293A; FRL-3600-3]

Griffin Corp.; Approval of Pesticide Product Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces Agency approval of applications submitted by Griffin Corporation, to conditionally register the pesticide products Raid Ant Controller II and Raid Roach Controller II containing an active ingredient not included in any previously registered product pursuant to the provisions of section 3(c)(7) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

FOR FURTHER INFORMATION CONTACT: By mail: Phil Hutton, Product Manager (PM) 17, Registration Division (H7505C), Office of Pesticide Programs, 401 M Street SW., Washington, DC 20460. Office location and telephone number: Room 207, CM#2C, Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703) 557-2690.

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the Federal Register of December 20, 1988 (53 FR 51134), which announced that Griffin Corporation, P.O. Box 1847, Valdosta, GA 31601, had submitted applications to conditionally register the pesticide products Raid Ant Controller II and Raid Roach Controller II, containing the active ingredient *N*-ethyl perfluorooctanesulfonamide at 0.5 and 1.00 percent respectively; an active ingredient not included in any previously registered products.

The applications were approved on March 23, 1989, as Raid Ant Controller II (EPA Reg. No. 1812-330), and Raid Roach Controller II (EPA Reg. No. 1812-329). Both products were classified for general use indoors in child resistant bait stations to control ants and roaches.

A conditional registration may be granted under section 3(c)(7)(C) of FIFRA for a new active ingredient where certain data are lacking, on condition that such data are received by the end of the conditional registration period and do not meet or exceed the risk criteria set forth in 40 CFR 154.7; that use of the pesticide during the conditional registration period will not cause unreasonable adverse effects; and that use of the pesticide is in the public interest.

The Agency has considered the available data on the risks associated with the proposed use of *N*-ethyl perfluorooctanesulfonamide and information on social, economic, and environmental benefits to be derived from such use. Specifically, the Agency has considered the nature of the chemical and its pattern of use, application methods and rates, and level and extent of potential exposure. Based on these reviews, the Agency was able to make basic health and safety determinations which show that use of *N*-ethyl perfluorooctanesulfonamide during the period of conditional registration will not cause any unreasonable adverse effect on the environment, and that use of the pesticide is in the public interest.

These registrations were made conditional since certain data were lacking. Several data requirements must be fulfilled during the period of conditional registration. Such requirements include dermal sensitization test (81-6) and rat primary hepatocyte unscheduled DNA synthesis assay (84-4) which is due by March 1990; chronic oral toxicity in Beagle Dogs and Male Canine sterility reversal after subchronic exposure which is due by July 1989. These conditional registrations will expire on September 15, 1990.

Consistent with section 3(c)(7)(C), the Agency has determined that these conditional registrations are in the public interest. Use of this pesticide is of significance to the user community, and appropriate labeling, use directions, and other measures have been taken to ensure that use of the pesticide will not result in unreasonable adverse effects to man and the environment.

More detailed information on these conditional registrations is contained in a Chemical Fact Sheet on *N*-ethyl perfluorooctanesulfonamide.

A copy of this fact sheet, which provides a summary description of the chemical, use patterns and formulations, science findings, and the Agency's regulatory position and rationale, may be obtained from Registration Division (H7505C), Environmental Protection Agency, Registration Support and Emergency Response Branch, 401 M Street SW., Washington, DC 20460.

In accordance with section 3(c)(2) of FIFRA, a copy of the approved label and the list of data references used to support registration are available for public inspection in the Office of the Product Manager. The data and other scientific information used to support registration, except for material specifically protected by section 10 of FIFRA, are available for public inspection in the Program Management and Support Division (H7502C), Office of Pesticide Programs, Environmental Protection Agency, Room 246, CM#2, Arlington, VA 22202, (703) 557–3262. Requests for data must be made in accordance with the provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office (A–101), 401 M Street SW., Washington, DC 20460. Such requests should: (1) Identify the product's name and registration number and (2) specify the data or information desired.

Authority: 7 U.S.C. 136.

Dated: May 16, 1989.

Douglas D. Campt,

Director, Office of Pesticide Programs.

[FR Doc. 89–13847 Filed 6–13–89; 8:45 am]

BILLING CODE 6560–50–M

[OPTS–400033; FRL–3601–9]

Emergency Planning and Community Right-to-Know; Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public meeting.

SUMMARY: EPA will hold a 1-day public meeting to discuss potential issues for obtaining additional detailed data under section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA). In connection with this meeting the Agency has prepared an issues paper that will be available at no charge through the address or telephone number given under **FOR FURTHER INFORMATION CONTACT.**

DATE: The meeting will take place on Tuesday, July 11, 1989, at 9 a.m. and adjourn by 3 p.m.

ADDRESS: The meeting will be held at the: Environmental Protection Agency, Auditorium, Education Center, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Eileen Gibson, Emergency Planning and Community Right-to-Know Information Hotline, U.S. Environmental Protection Agency, Mail Stop OS–120, 401 M St., SW., Washington, DC 20460, Toll Free: 1–800–535–0202, Washington, DC and Alaska (202) 479–2449, Attention: Docket No. 400033.

SUPPLEMENTARY INFORMATION: In 1986, Congress enacted the Emergency Planning and Community Right-To-Know Act (EPCRA). Section 313 of EPCRA requires certain businesses to submit reports each year on the amounts of toxic chemicals their facilities release into the environment. The purpose of this requirement is to inform the public and government officials about releases of specified toxic chemicals. The section 313 list includes more than 300 chemicals and 20 chemical categories.

In the **Federal Register** of June 4, 1987 (52 FR 21152), EPA issued a notice of proposed rulemaking for regulations to implement the provisions of section 313. In response to that proposal, the issue was raised of also having release data reported in terms of its frequency, duration, or peak value. EPA discussed the issue of peak release data in the preamble to the final rule for implementing section 313 of EPCRA February 16, 1988 (53 FR 4500). Although EPA did not include a requirement for peak release reporting in the final rule, EPA stated that it would conduct analyses to identify the type of data needed to understand better the risks associated with releases of toxic chemicals and determine how these data could best be reported by facilities.

The Agency convened a work group which has developed a paper representing the work group's analysis of the issues for collecting "peak release" type data. Copies of the issues paper will be available to the public on or after Friday, June 30, 1989, from the source listed under **FOR FURTHER INFORMATION CONTACT.**

The agenda for this public meeting will cover the data elements needed for "peak release" data collection and their uses in risk screening, and an overview of issues and statements by interested members of the public. Michael H. Shapiro, Director of the Economics & Technology Division, Office of Toxic Substances, will be the key note speaker at the public meeting.

Any member of the public wishing to provide written comments should submit them in triplicate to the address provided under **FOR FURTHER INFORMATION CONTACT.** Interested persons may also file written statements in triplicate at the meeting, and may, upon advance request, present oral statements to the extent time permits.

Scheduling of oral statements will be on a first come first served basis by calling the number listed under **FOR FURTHER INFORMATION CONTACT.** All statements will be made part of the public record and will be considered in the development of any proposed rule amendment.

Dated: June 7, 1989.

Dwain Winters,

Acting Director, Office of Toxic Substances.

[FR Doc. 89–14101 Filed 6–13–89; 8:45 am]

BILLING CODE 6560–50–M

[OPP–30279A; FRL–3602–1]

E. I. Du Pont De Nemours and Co.; Approval of Pesticide Product Registration

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces Agency approval an application submitted by E. I. Du Pont de Nemours and Co., to conditionally register the pesticide product Londax Herbicide containing an active ingredient not included in any previously registered product pursuant to the provisions of section 3(c)(7) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

FOR FURTHER INFORMATION CONTACT: By mail: Larry Schnaubelt, Product Manager (PM) 23, Registration Division (H7505C), Office of Pesticide Programs, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 237 CM#2C, Environmental Protection Agency, 1921 Jefferson Davis Hwy, Arlington, VA 22202, (703–557–1830).

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the **Federal Register** of May 13, 1987 (52 FR 18021), which announced that E. I. du Pont de Nemours and Co, Inc., Agricultural Products Dept., Barley Plaza, Wilmington, DE 19898, had submitted an application to conditionally register the pesticide product Du Pont Londax Herbicide containing the active ingredient methyl-2-[[[[[(4,6-dimethoxy-pyrimidin-2-yl]amino]carbonyl]amino]-sulfonyl]methyl]benzoate at 60 percent; an active ingredient not included in any previously registered product.

The application was approved on February 17, 1989, as Londax Herbicide, for use on rice in the States of Arkansas,

California, Louisiana, Mississippi, Missouri, and Texas. The product was assigned EPA Registration Number 352–506.

A conditional registration may be granted under section 3(c)(7)(C) of FIFRA for a new active ingredient where certain data are lacking, on condition that such data are received by the end of the conditional registration period and do not meet or exceed the risk criteria set forth in 40 CFR 154.7; that use of the pesticide during the conditional registration period will not cause unreasonable adverse effects; and that use of the pesticide is in the public interest.

The Agency has considered the available data on the risks associated with the proposed use of bensulfuron methyl ester (methyl-2-[[[[[(4,6-dimethoxy-pyrimidin-2-yl]amino]-carbonyl]amino]sulfonyl]-methyl]benzoate and information on social, economic, and environmental benefits to be derived from such use. Specifically, the Agency has considered the nature of the chemical and its pattern of use, application methods and rates, and level and extent of potential exposure. Based on these reviews, the Agency was able to make basic health and safety determinations which show that use of bensulfuron methyl ester during the period of conditional registration will not cause any unreasonable adverse effect on the environment, and that use of the pesticide is, in the public interest.

This registration was made conditional since certain data were lacking. These data requirements must be fulfilled during the period of conditional registration.

Consistent with section 3(c)(7)(C), the Agency has determined that this conditional registration is in the public interest. Use of this pesticide is of significance to the user community, and appropriate labeling, use directions, and other measures have been taken to ensure that use of the pesticide will not result in unreasonable adverse effects to man and the environment.

More detailed information on this conditional registration is contained in a Chemical Fact Sheet on bensulfuron methyl ester.

A copy of this fact sheet, which provides a summary description of the chemical, use patterns and formulations, science findings, and the Agency's regulatory position and rationale, may be obtained from Registration Division (H7505C), Environmental Protection Agency, Registration Support and Emergency Response Branch, 401 M St., SW., Washington, DC 20460.

In accordance with section 3(c)(2) of FIFRA, a copy of the approved label and the list of data references used to support registration are available for public inspection in the office of the Product Manager. The data and other scientific information used to support registration, except for material specifically protected by section 10 of FIFRA, are available for public inspection in the Program Management and Support Division (H7502C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 246, CM#2, Arlington, VA 22202 (703–557–3262). Requests for data must be made in accordance with the provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office (A–101), 401 M St., SW., Washington, DC 20460. Such requests should: (1) Identify the product name and registration number and (2) specify the data or information desired.

Authority: 7 U.S.C. 136.

Dated: May 26, 1989.

Douglas D. Campt,

Director, Office of Pesticide Programs.

[FR Doc. 89-14102 Filed 6-13-89; 8:45 am]

BILLING CODE 6560-50-M

[OPP-240085; FRL-3602-2]

State Registrations of Pesticides

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received notices of registration of pesticides to meet special local needs under section 24(c) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, from 32 States. A registration issued under this section of FIFRA shall not be effective for more than 90 days if the Administrator disapproves the registration or finds it to be invalid within that period. If the Administrator disapproves a registration or finds it to be invalid after 90 days, a notice giving that information will be published in the **Federal Register.**

DATE: The last entry for each item is the date the State registration of that product became effective.

FOR FURTHER INFORMATION CONTACT: Owen F. Beeder, Registration Division (H7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC.

Office location and telephone number: Rm. 716A, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, (703)–557–7893.

SUPPLEMENTARY INFORMATION: This notice only lists the section 24(c) applications submitted to the Agency. The Agency has 90 days to approve or disapprove each application listed in this notice. Applications that are not approved are returned to the appropriate State for action. Most of the registrations listed below were received by the EPA in February through April of 1989. Receipts of State registrations will be published periodically. Of the following registrations, none involve a changed-use pattern (CUP). The term "changed-use pattern" is defined in 40 CFR 162.3(k) as a significant change from a use pattern approved in connection with the registration of a pesticide product. Examples of significant changes include, but are not limited to, changes from a nonfood to food use, outdoor to indoor use, ground to aerial application, terrestrial to aquatic use, and nondomestic to domestic use.

Alabama

EPA SLN No. AL 89 0001. B&W Quality Growers, Inc. Registration is for Kocide 101 to be used on watercress to control cercospora leaf spot. February 1, 1989.

EPA SLN No. AL 89 0002. Coopers Animal Health, Inc. Registration is for Saber TM Insecticide Ear Tags to be used on beef and nonlactating dairy cattle to control horn flies and face flies. February 1, 1989.

EPA SLN No. AL 89 0003. Van Waters & Rogers, Inc. Registration is for Van Waters & Rogers Standard 2,4-D Amine to be used on ponds, lakes, reservoirs, marshes, bayous, canals, rivers, and streams to control water hyacinth. April 6, 1989.

EPA SLN No. AL 89 0004. Valent U.S.A. Corp. Registration is for Valent Diquat Herbicide to be used on fresh water lakes, reservoirs, rivers, and drainage and flood control canals to control water hyacinth. April 6, 1989.

EPA SLN No. AL 89 0005. Platte Chemical Co. Registration is for Clean Crop Curbit EC Herbicide to be used on cucumbers, melons, and watermelons for preemergence control of certain annual grasses and broadleaf weeds. April 17, 1989.

Arizona

EPA SLN No. AZ 89 0001. Ramsey Farms, Inc. Registration is for Prefar 4E to be used on onions grown for seed to control purslane, canary grass, watergrass, and sprangletop. January 3, 1989.

EPA SLN No. AZ 89 0002. Everkrisp Vegetables, Inc. Registration is for Ciba-Geigy D-Z-N Diazinon 50W to be used

on Chinese cabbage to control aphids. January 20, 1989.

EPA SLN No. AZ 89 0003. Britan Farms. Registration is for Manzate D to be used on Chinese cabbage to control downy mildew. January 20, 1989.

EPA SLN No. AZ 89 0004. Britan Farms. Registration is for Ciba-Geigy D-Z-N Diazinon 50W to be used on Chinese cabbage to control aphids. January 20, 1989.

EPA SLN No. AZ 89 0005. Britan Farms. Registration is for Prokil Ethyl-Methyl 6–3E to be used on Chinese cabbage to control aphids. January 20, 1989.

EPA SLN No. AZ 89 0006. Britan Farms. Registration is for Ethyl-Methyl Parathion 5 to be used on Chinese cabbage to control aphids. January 20, 1989.

EPA SLN No. AZ 89 0007. USDA/APHIS/ADC. Registration is for Compound DRC–1339 Concentrate to be used on feedlots to control blackbirds and starlings. February 6, 1989.

EPA SLN No. AZ 89 0008. Leffingwell/Uniroyal Chemical Co. Registration is for Maintain CF 125 to be used on ornamental olive trees for pollen and fruit prevention. March 1, 1989.

EPA SLN No. AZ 89 0010. Valent U.S.A. Corp. Registration is for Genep(R) EPTC 7EC to be used for idle season fallow ground treatment to control yellow and purple nutsedge. April 12, 1989.

EPA SLN No. AZ 89 0011. Micro Flo Co. Registration is for Dimethoate 4 EC to be used on citrus to control thrips. April 13, 1989.

EPA SLN No. AZ 89 0012. Envirochem. Registration is for Super IQ(R) Insecticide Latex Coating APT & LC to be used on water meter vault interior surfaces to control cockroaches, crickets, and spiders. March 31, 1989.

Arkansas

EPA SLN No. AR 89 0001. Coopers Animal Health, Inc. Registration is for Saber TM Insecticide Ear Tags to be used on beef and nonlactating dairy cattle and calves to control horn flies and face flies. March 14, 1989.

EPA SLN No. AR 89 0002. Chevron Chemical Co. Registration is for Monitor 4 Spray to be used on cotton to control aphids, fleahoppers, whiteflies, and several other pests. March 21, 1989.

EPA SLN No. AR 89 0003. Ciba-Geigy Corp., Agricultural Div. Registration is for Tilt Fungicide to be used on wheat, barley, and rye to control rusts, powdery mildew, leaf blight, and glume blotch. March 24, 1989.

EPA SLN No. AR 89 0004. ICI Americas, Inc. Registration is for Ordram 15G Herbicide to be used on rice for postemergence application in emergency situations to control barnyardgrass. March 24, 1989.

EPA SLN No. AR 89 0005. Valent U.S.A. Corp. Registration is for Monitor 4 Spray to be used on cotton to control aphids and thrips. April 11, 1989.

EPA SLN No. AR 89 0006. Rohm and Haas Co. Registration is for Dithane(R) F–45 to be used on cotton to control *Rhizoctonia solani* and Pythium *spp.* April 14, 1989.

EPA SLN No. AR 89 0007. Fairfield American Corp. Registration is for Permanone 10 percent EC to be used outdoors and in homes and nonfood areas, on kennels, commercial buildings, etc. to control gypsy moth, caterpillars, and Japanese beetles. April 17, 1989.

California

EPA SLN No. CA 89 0001. University of California, South Coast Field Station. Registration is for Durham Metaldehyde Granules 3.5/7.5 percent to be used on kiwi to control brown garden snail, *Helix aspersa.* January 5, 1989.

EPA SLN No. CA 89 0003. Tuolumne County Agricultural Commissioner. Registration is for DuPont Benlate Fungicide to be used on greenhouse cucumbers to control gummy stem blight and target spot. January 13, 1989.

EPA SLN No. CA 89 0004. Mobay Corp., Agricultural Chemicals Div. Registration is for Sencor DF 75% Dry Flowable Herbicide to be used on irrigation furrows in alfalfa grown in rows to control several weeds. January 17, 1989.

EPA SLN No. CA 89 0005. Mobay Corp. Registration is for Sencor 4 Flowable Herbicide to be used on irrigation furrows in alfalfa grown in rows to control several weeds. January 17, 1989.

EPA SLN No. CA 89 0006. University of California. Registration is for Furadan 4F (Carbofuran) to be used on grapevines growing in containers in greenhouses, lath houses, shadehouses, and screen houses to control grape phylloxera, *Daktulosphaira vitifolia.* January 30, 1989.

EPA SLN No. CA 89 0007. Parks and Recreation Dept., City of Stockton, CA. Registration is for Summer Flowable Emulsion-Light-Medium to be used on ornamental trees along city street rights-of-way to control scale, aphids, and mite eggs. January 31, 1989.

EPA SLN No. CA 89 0008. Monrovia Nursery Co. Registration is for Dithane M–45 to be used on ornamentals not listed on the Federal label to control diseases listed on the Federal label. February 1, 1989.

EPA SLN No. CA 89 0009. Santa Barbara County Dept. of Agriculture. Registration is for Goal 1.6 E Herbicide to be used on ornamental sweet peas grown for seed to control broadleaf weeds. February 2, 1989.

EPA SLN No. CA 89 0011. Tuolumne County Agricultural Commissioner. Registration is for Thiolux to be used on greenhouse grown tomatoes to control powdery mildew. February 14, 1989.

EPA SLN No. CA 89 0012. Rohm and Haas Co. Registration is for Goal(R) 1.6E Herbicide to be used on nondormant almonds and walnuts to control several weeds. February 15, 1989.

EPA SLN No. CA 89 0016. Dow Chemical U.S.A., Agricultural Products Dept. Registration is for Lorsban 4E Insecticide to be used on citrus with aerial application to control several pests. March 8, 1989.

EPA SLN No. CA 89 0017. Dow Chemical U.S.A., Agricultural Products Dept. Registration is for Lorsban 50W to be used on tree nuts with aerial application to control various insects infesting nut trees. March 8, 1989.

EPA SLN No. CA 89 0018. Dow Chemical U.S.A., Agricultural Products Dept. Registration is for Lorsban 4E Insecticide to be used on tree nuts with aerial application to control various insects infesting nut trees. March 8, 1989.

EPA SLN No. CA 89 0019. Dow Chemical U.S.A., Agricultural Products Dept. Registration is for Lorsban 50W to be used on appleis to control various insects. March 14, 1989.

EPA SLN No. CA 89 0020. California Dept. of Food and Agriculture. Registration is for Rodent Bait Diphacinone-Treated Grain (0.005%) to be used on grain to control Norway rats, roof rats, ground squirrels, chipmunks, muskrats, jackrabbits, and several other pests. March 16, 1989.

EPA SLN No. CA 89 0021. California Dept. of Food and Agriculture. Registration is for Rodent Bait Block Diphacinone Treated Grain/Paraffin (0.005%) to be used on grain to control Norway rats, roof rats, ground squirrels, chipmunks, muskrats, jack rabbits, and several other pests. March 16, 1989.

EPA SLN No. CA 89 0022. California Dept. of Food and Agriculture. Registration is for Rodent Bait Diphacinone-Treated Grain to be used on grain to control ground squirrels, deer mice, and house mice. March 16, 1989.

EPA SLN No. CA 89 0024. California Dept. of Food and Agriculture. Registration is for Rodent Bait Chlorophacinone Treated Grain (0.01%) to be used on grain to control ground squirrels, deer mice, and house mice. March 16, 1989.

EPA SLN No. CA 89 0026. California Dept. of Food and Agriculture. Registration is for Rodent Bait Zinc Phosphide Treated Grain (2%) to be used on grain to control ground squirrels, deer mice, and house mice. March 6, 1989.

EPA SLN No. CA 89 0027. California Dept. of Food and Agriculture. Registration is for Rodent Bait Zinc Phosphide Treated Grain (2%) to be used on grain to control ground squirrels, meadow mice, cotton rats, and Norway roof rats. March 16, 1989.

EPA SLN No. CA 89 0028. California Dept. of Environmental Horticulture. Registration is for Rubigan EC Fungicide to be used on greenhouse-container-grown eucalyptus cultivars to control powdery mildew and several other diseases. March 29, 1989.

EPA SLN No. CA 89 0029. Sunseed Genetics, Inc. Registration is for Gustafson Thiram 45 WP to be used on onion seed to control seed decay. March 29, 1989.

Delaware

DPE SLN No. DE 89 0001. FMC Corp., Agricultural Chemicals Group. Registration is for Command 4EC Herbicide to be used on soybeans to control selected weed species. January 22, 1989.

Florida

EPA SLN No. FL 89 0001. Coopers Animal Health, Inc. Registration is for Saber(R) Insecticide Ear Tags to be used on beef and nonlactating dairy cattle to control horn flies. January 19, 1989.

EPA SLN No. FL 89 0002. Valent U.S.A. Corp. Registration is for Dibrom 14 Concentrate to be used on residential areas, municipalities, tidal marshes, swamps, woodlands, livestock pastures, feed lots, and pastures including dairy cattle to control adult mosquitos. February 1, 1989.

EPA SLN No. FL 89 0003. Valent U.S.A. Corp. Registration is for Dibrom 14 Concentrate to be used on residential areas, municipalities, tidal marshes, swamps, woodlands, livestock pastures, feed lots, and pastures including dairy cattle to control adult mosquitos. February 1, 1989.

EPA SLN No. FL 89 0004. Valent U.S.A. Corp. Registration is for Diquat Herbicide H/A to be used on fresh water ponds, lakes, rivers, drainage and flood control canals, ditches, reservoirs, bayous, and other quiescent or slowly moving bodies of water to control noxious aquatic plants. February 1, 1989.

EPA SLN No. FL 89 0005. Valent U.S.A. Corp. Registration is for Diquat Herbicide H/A to be used on fresh water ponds, lakes, rivers, drainage and flood control canals, ditches, reservoirs, bayous, and other quiescent or slowly moving bodies of water to control noxious aquatic plants. February 1, 1989.

EPA SLN No. FL 89 0006. Valent U.S.A. Corp. Registration is for Monitor 4 Spray to be used on crisp head lettuce to control vegetable leaf miners, aphids, and cabbage loopers. February 1, 1989.

EPA SLN No. FL 89 0007. Valent U.S.A. Corp. Registration is for Monitor 4 Spray to be used on tomatoes (fresh fruit only) to control aphids, fruitworms, leaf miners, and several other pests. February 1, 1989.

EPA SLN No. FL 89 0008. Valent U.S.A. Corp. Registration is for Dibrom 8 Emulsive to be used on lettuce to control adult vegetable leaf miners. February 1, 1989.

EPA SLN No. FL 89 009. Valent U.S.A. Corp. Registration is for Orthene 75 S Soluble Powder to be used on celery to control green peach aphids. February 1, 1989.

EPA SLN No. FL 89 0010. Valent U.S.A. Corp. Registration is for Monitor Spray to be used on eggplant to control spidermites, aphids, leaf miners, and lepidopterous larvae. February 1, 1989.

EPA SLN No. FL 89 0011. Valent U.S.A. Corp. Registration is for Monitor 4 Spray to be used on melons to control rindworm complex. February 1, 1989.

EPA SLN No. FL 89 0012. Valent U.S.A. Corp. Registration is for Monitor 4 Spray to be used on cucumbers to control pickelworms, aphids, melonworms, and leaf miners. February 1, 1989.

EPA SLN No. FL 89 0013. Valent U.S.A. Corp. Registration is for Monitor 4 Spray to be used on cabbage to control cabbage loopers, imported cabbageworms, diamondback moth larvae, and aphids. February 1, 1989.

EPA SLN No. FL 89 0014. Valent U.S.A. Corp. Registration is for Monitor 4 Spray to be used on lettuce to control aphids, cabbage loopers, diamondback moth larvae, granulate cutworms, and leaf miners. February 1, 1989.

EPA SLN No. FL 89 0015. Valent U.S.A. Corp. Registration is for Bolero 8 EC to be used on dry-seeded rice to control barnyard grass and goosegrass. February 1, 1989.

EPA SLN No. FL 89 0016. Valent U.S.A. Corp. Registration is for Orthene 75 S Soluble Powder to be used on residential and commercial turf and golf courses to control sod webworm, leafhoppers, and mole crickets. February 1, 1989.

EPA SLN No. FL 89 0017. Valent U.S.A. Corp. Registration is for Orthene 75S Soluble Powder to be used on slash pine seed orchards to control slash pine flower thrips. February 1, 1989.

EPA SLN No. FL 89 0018. Valent U.S.A. Corp. Registration is for Orthene 75 S Soluble Power to be used on southern pine seed orchards to control slash pine flower thrips, coneworms, and seedbugs. February 1, 1989.

EPA SLN No. FL 89 0019. Valent U.S.A. Corp. Registration is for Orthene 75 S Soluble Power to be used on nonbearing citrus to control imported fire ants. February 1, 1989.

EPA SLN No. FL 89 0020. Monsanto Agricultural Co. Registration is for Roundup Herbicide to be used on atemoya, carambola, and sugar apples to control a variety of annual and perennial weeds. February 7, 1989.

EPA SLN No. FL 89 0021. Allied Universal Corp. Registration is for Pool Guard Chlorinated Solution to be used on irrigation systems to control bacterial slime in drip irrigation systems. February 21, 1989.

EPA SLN No. FL 89 0022. Valent U.S.A. Corp. Registration is for Orthene 75 S Soluble Powder to be used on nonbearing citrus trees to control citrus root weevil complex. March 8, 1989.

EPA SLN No. FL 89 0023. Agricultural Div., Ciba-Geigy Corp. Registration is for Ridomil 2E Fungicide to be used on citrus to control *Phytophthora* root rot. March 15, 1989.

EPA SLN No. FL 89 0024. Agricultural Div., Ciba-Geigy Corp. Registration is for D.Z.N. Diazinon 50 W to be used on nursery stock to control fire ants. April 4, 1989.

EPA SLN No. FL 89 0025. Agricultural Div., Ciba-Geigy Corp. Registration is for D.Z.N. Diazinon AG 500 to be used on nursery stock to control fire ants. April 4, 1989.

Georgia

EPA SLN No. GA 89 0001. Platte Chem. Co. Registration is Clean Crop Curbit EC Herbicide to be used on cucumbers, melons, and watermelons to control certain annual grasses and broadleaf weed. January 12, 1989.

Hawaii

EPA SLN No. HI 89 0001. ICI Americas, Inc. Registration is for Gramoxone Super Paraquat Herbicide to be used on sugarcane harvest crop desiccation to control several weeds. March 3, 1989.

Iowa

EPA SLN No. IA 89 0001. Coulston International Corp. Registration is for Permanone Tick Repellent to be used as clothing treatment only to control ticks. February 21, 1989.

Louisiana

EPA SLN No. LA 89 0001. Agrolinz, Inc. Registration is for 2,4-D Amine No. 4 to be used on ponds, lakes, reservoirs, marshes, bayous, drainage ditches, canals, rivers, and streams to control water hyacinth. March 13, 1989.

EPA SLN No. LA 89 0001. Agricultural Division, Ciba-Geigy Corp. Registration is for Tilt Fungicide to be used on wheat, barley, and rye to control rusts, powdery mildew, leaf blight, and glume blotch. March 21, 1989.

EPA SLN No. LA 89 0003. Rohm and Haas Co. Registration is for Dithane (R) F–45 to be used on cottonseed in furrow-seed treatment to control *Rhizoctonia solani, Pythium* spp. March 29, 1989.

EPA SLN No. LA 89 0004. Valent U.S.A. Corp. Registration is for cotton in-furrow application to control aphids and thrips. April 7, 1989.

Maryland

EPA SLN No. MD 89 0001. Agricultural Division, Ciba-Geigy Corp. Registration is for Tilt Fungicide to be used on wheat, barley, and rye to control rusts (*Puccinia* spp.), powdery mildew, leafblight, and glume blotch. March 31, 1989.

Michigan

EPA SLN No. MI 89 0001. Dow Chemical, U.S.A., Agricultural Products Dept. Registration is for Lorsban 4E Insecticide to be used on Christmas trees to control tree and forest pests. March 1, 1989.

EPA SLN No. MI 89 0003. Coulston International Corp. Registration is for Permanone Tick Repellent to be used as clothing treatment to control ticks, chiggers, and mosquitos. April 17, 1989.

EPA SLN No. MI 89 0004. Mobay Corp. Registration is for Metasystox(R) Spray Concentrate to be used on Christmas trees to control several pests. April 17, 1989.

Mississippi

EPA SLN No. MS 89 0001. Agricultural Division, Ciba-Geigy Corp. Registration is for Tilt Fungicide to be used on cereals and grasses grown for seed to control certain diseases. March 20, 1989.

EPA SLN No. MS 89 0002. E.I. du Pont de Nemours & Co., Inc. Registration is for Velpar L Herbicide to be used on established Bermudagrass and Bahiagrass to control smut grass. March 20, 1989.

EPA SLN No. MS 89 0003. E.I. du Pont de Nemours & Co., Inc. Registration for Velpar L Herbicide to be used on established bermudagrass and bahiagrass to control smut grass. March 20, 1989.

EPA SLN No. MS 89 0004. Valent U.S.A. Corp. Registration is for Orthene 90S to be used on cotton to control aphids and thrips. March 22, 1989.

EPA SLN No. MS 89 0005. Rohm & Haas Co. Registration is for Dithane(R) F–45 to be used on cotton to control cotton seedling diseases. April 10, 1989.

EPA SLN No. MS 89 0006. Kincaid Enterprises, Inc. Registration is for Chloroneb 65W to be used on cotton to control cotton seedling diseases. April 10, 1989.

Missouri

EPA SLN No. 89 0001. Agricultural Division, Ciba-Geigy Corp. Registration is for Tilt Fungicide to be used on wheat, barley, and rye to control rusts, powdery mildew, leaf blight, and glume blotch. March 28, 1989.

EPA SLN No. MO 89 0002. FMC Corp., Agricultural Chem. Group. Registration is for Furadan 4 Flowable to be used on strawberries after harvest to control root weevil. April 11, 1989.

EPA SLN No. MO 89 0003. Agricultural Division, Ciba-Geigy Corp. Registration is for Triumph 4E Insecticide to be used on tees and aprons of golf courses and sod farms to control several insects. April 11, 1989.

EPA SLN No. MO 89 0004. FMC Corp., Agricultural Chem. Group. Registration is for Furadan 4 Flowable to be used on alfalfa to control clover root curculio, crickets, grasshoppers, and nematodes. April 11, 1989.

Montana

EPA SLN No. MT 89 0002. Fairfield American Corp. Registration is for Permanone Pyrenone(R) Liquid Dust to be used on rodents to control plague vectoring arthropods. January 30, 1989.

EPA SLN No. MT 89 0004. Quality Technologies. Registration is for Hopper Bait II to be used on rangeland and cropland to control grasshoppers. February 17, 1989.

EPA SLN No. MT 89 0005. Fairfield American Corp. Registration is for Permanone(R) Tick Repellent to be used on clothing to control ticks, mosquitos, and chiggers. February 17, 1989.

EPA SLN No. MT 89 0006. E.I. du Pont de Nemours & Co., Inc. Registration is for Du Pont Vydate L Insecticide/ Nematicide to be used on peppermint and spearmint to control nematodes. February 28, 1989.

EPA SLN No. MT 89 0007. Mobay Corp. Agricultural Chem. Div. Registration is for Di-Syston 8 to be used on seeded native and tame grass to control aphids. March 14, 1989.

EPA SLN No. MT 89 0008. Montana Dept. of Agriculture, Environmental Management Div. Registration is for Treflan(R) TR-10 to be used on rapeseed, safflower, and sunflowers to control several weeds. April 14, 1989.

Nebraska

EPA SLN No. NE 89 0001. Natural Fibers Corp. Registration is for Sencor 4 to be used on milkweed to control various weeds. March 10, 1989.

EPA SLN No. NE 89 0002. Natural Fibers Corp. Registration is for Devrinol WP Herbicide to be used on milkweed to control annual grassy and broad leaf weeds. March 9, 1989.

EPA SLN No. NE 89 0003. E.I. du Pont de Nemours & Co., Inc. Registration is for Extrazine II 4L Herbicide to be used for preplant use on grain sorghum to control several weeds. March 24, 1989.

EPA SLN No. NE 89 0004. E.I. du Pont de Nemours & Co., Inc. Registration is for Extrazine II DF Herbicide for preplant use on grain sorghum to control several weeds. March 24, 1989.

EPA SLN No. NE 89 0005. Fermanta Plant Protection Co. Registration is for Bravo C/M to be used on dry edible beans to control bacterial and fungal diseases. March 24, 1989.

Nevada

EPA SLN No. NV 89 0001. Platte Chemical Co. Registration is for Clean Crop Botran 75 WDC to be used on potatoes to control white mold. February 22, 1989.

EPA SLN No. NV 89 0002. NOR–AM Chemical Co. Registration is for Botran 75-WDG to be used on potatoes to control white mold. March 9, 1989.

New Hampshire

EPA SLN No. NH 89 0001. Agricultural Division, Ciba-Geigy Corp. Registration is for Triumph 4E Insecticide to be used on greens and aprons of golf courses and sod farms to control various insects. January 26, 1989.

New Jersey

EPA SLN No. NJ 89 0001. Agricultural Division, Ciba-Geigy Corp. Registration is for Triumph 4E Insecticide to be used on tees, greens, and aprons of golf courses and sod farms to control various insects. January 25, 1989.

EPA SLN No. NJ 89 0002. Platte Chemical Co. Registration is for Clean Crop Captan 50-W to be used on blueberries to control anthracnose fruit rot and boyrytis gray mold. February 10, 1989.

EPA SLN No. NJ 89 0003. Prentiss Drug & Chemical Co. Registration is for Prentox(R) PBO-8 to be used on tomatoes and potatoes to control several insects. March 15, 1989.

EPA SLN No. NJ 89 0004. Prentiss Drug & Chemical Co. Registration is for Prentox(R) Rotenox TM 5 EC to be used on potatoes, tomatoes, and eggplant to control Colorado potato beetles. March 15, 1989.

New Mexico

EPA SLN No. NM 89 0001. Bell Laboratories, Inc. Registration is for Quintox Rat and Mouse Bait to be used in and around homes, industrial, commercial, agricultural, and poultry buildings and other structures to control rats and mice. January 16, 1989.

New York

EPA SLN No. NY 89 0001. Tennessee Chemical Co. Registration is for Copper Sulfate Powdered Instant to be used on grapes to control dormant powdery mildew. April 6, 1989.

North Carolina

EPA SLN No. NC 89 0001. Platte Chemical Co. Registration is for Clean Crop Curbit EC Herbicide to be used on cucumbers, melons, and watermelons to control certain annual grasses and broadleaf weeds. February 7, 1989.

EPA SLN No. NC 89 0002. Agricultural Division, Ciba-Geigy Corp. Registration is for Triumph 4E Insecticide to be used on Christmas tree plantings to control certain insects. February 7, 1989.

Ohio

EPA SLN No. OH 89 0003. E.I. du Pont de Nemours & Co. Registration is for Manzate 200DF Fungicide to be used on greenhouse tomato transplants to control certain diseases. April 13, 1989.

EPA SLN No. OH 89 0004. Mobay Corp. Registration is for Metasystox-R Spray Concentrate to be used on Christmas trees to control aphids, mites, and thrips. April 13, 1989.

Oregon

EPA SLN No. OR 89 0001. E.I. du Pont de Nemours & Co., Inc. Registration is for Du Pont Asana XL Insecticide 0.66 EC to be used on pears (prebloom) to control pear psylla. January 17, 1989.

EPA SLN No. OR 89 0002. FMC Corp. Agricultural Chemical Group. Registration is for Talstar 10 WP Insecticide/Miticide to be used on outdoor ornamentals to control many important mite and insect pests. April 10, 1989.

Pennsylvania

EPA SLN No. PA 89 0001. Tennessee Chemical Co. Registration is for Copper Sulfate Powdered Instant Bluestone to be used on impounded waters, lakes, ponds, and reservoirs to control algae. March 9, 1989.

EPA SLN No. PA 89 0003. FMC Corp., Agricultural Chem. Group. Registration is for Furadan 4F to be used on strawberries to control root weevils. April 5, 1989.

South Carolina

EPA SLN No. SC 89 0001. Platte Chemical Co. Registration is for Clean Crop Curbit EC Herbicide to be used on cucumbers, melons, and watermelons to control certain annual grasses and broadleaf weeds. February 21, 1989.

EPA SLN No. SC 89 0002. Agricultural Division, Ciba-Geigy Corp. Registration is for Tilt Fungicide to be used on wheat, barley, and rye to control rusts, powdery mildew, leaf blight, and glume blotch. April 6, 1989.

South Dakota

EPA SLN No. SD 89 0002. Coopers Animal Health, Inc. Registration is for Saber TM Insecticide Ear Tags to be used on beef and nonlactating dairy cattle and calves to control horn and face flies. December 12, 1988.

Tennessee

EPA SLN No. TN 89 0001. Tennessee Dept. of Agriculture. Registration is for Carboxide to be used on beekeeping equipment to control contaminants. February 13, 1989.

EPA SLN No. TN 89 0002. Agricultural Division, Ciba-Geigy Corp. Registration is for Tilt(R) Fungicide to be used on wheat, barley, and rye to control several pests. April 13, 1989.

Texas

EPA SLN No. TX 89 0001. USDA-APHIS-ADC. Registration is for DRC-1339 to be used on various locations in Texas to control feral pigeons and roosting birds, starlings, red-winged black birds, rusty blackbirds, Brewer's blackbirds, brown-headed cow birds, common grackles, and great-tailed grackles. January 16, 1989.

EPA SLN No. TX 89 0002. Platte Chemical Co. Registration is for Clean Crop Curbit EC Herbicide to be used on cucumbers, melons, and watermelons to control various weeds. February 9, 1989.

EPA SLN No. TX 89 0003. Chevron Chem. Co. Registration is Orthene 75S Soluble Powder to be used on southern pine seed orchards to control thrips, coneworms and seedbugs. March 31, 1989.

Virginia

EPA SLN No. VA 89 0001. FMC Corp., Agricultural Chemical Group. Registration is for Command 4EC Herbicide to be used on soybeans for preemergence control of selected weeds. January 25, 1989.

EPA SLN No. VA 89 0002. FMC Corp. Registration is for Command 4EC Herbicide to be used as preemergence application to peas to control selected weed species. February 23, 1989.

EPA SLN No. VA 89 0003. Agricultural Division, Ciba-Geigy Corp. Registration is for Tilt Fungicide to be used on wheat, barley, and rye to control rusts, powdery mildew, leaf blight, and glume blotch. April 4, 1989.

Washington

EPA SLN No. WA 89 0001. E.I. du Pont de Nemours, Inc. Registration is for DuPont Asana XL Insecticide 0.66 EC to be used on pears to control pear psylla. January 12, 1989.

EPA SLN No. WA 89 0002. ICI Americas, Inc., Agricultural Products. Registration is for Gramoxone Super herbicide to be used on ornamental bulb crops to control annual broadleaf weeds and grasses and top kill of perennial weeds. January 13, 1989.

EPA SLN No. WA 89 0004. FMC Corp., Agricultural Chemicals Group. Registration is for Talstar 10 WP Insecticide/Miticide to be used on ornamental trees, shrubs, plants, and Christmas trees, nonbearing fruit and nut trees, and pine seed orchards to control mites. March 14, 1989.

EPA SLN No. WA 89 0005. Platte Chemical Co., Inc. Registration is for Chem Hoe 135 to be used on alfalfa to control winter annual grasses, volunteer grains, and wild oats. March 14, 1989.

EPA SLN No. WA 89 0006. Flora & Fauna Labs, Inc. Registration is for Deer-Away Big Game Repellent Powder BGR-P to be used on young Douglas-fir seedlings to control mountain beavers. April 7, 1989.

EPA SLN No. WA 89 0007. Platte Chemical Co. Registration is for Clean Crops Curbit EC Herbicide to be used on cucumbers, melons, and watermelons to control certain annual grasses and broadleaf weeds. April 12, 1989.

EPA SLN No. TN 89 0008. Chas. H. Lilly Co. Registration is for Lilly/Miller Rotefive to be used on vegetables, small fruits, and flowers to control several insect pests. April 12, 1989.

Wisconsin

EPA SLN No. WI 89 0001. Miller Chemical & Fertilizer Corp. Registration is for Hot Sauce Animal Repellent to be used on maple sap collecting tubing, lines, and fittings to control squirrels. March 17, 1989.

(Sec. 24, as amended, 92 Stat. 835 (7 U.S.C 136).)

Dated: May 31, 1989.

Anne E. Lindsay,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 89-14103 Filed 6-13-89; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirements Submitted to the Office of Management and Budget for Review

June 1, 1989.

The Federal Communications Commission has submitted the following information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980, 44 U.S.C. 3507.

Copies of these submissions may be purchased from the Commission's duplicating contractor, International Transcription Service, 2100 M Street, NW., Suite 140, Washington, DC 20037, or telephone (202) 857-3815. Persons wishing to comment on an information collection should contact Eyvette Flynn, Office of Management and Budget, Room 3235 NEOB, Washington, DC 20503, telephone (202) 395-3785. Copies of these comments should also be sent to the Commission. For further information contact Doris Benz, Federal Communications Commission, telephone (202) 632-7513.

OMB No.: 3060-0031.

Title: Application for Consent to Assignment of Broadcast Station Construction Permit or License.

Form No.: FCC 314.

Action: Revision.

Respondents: Business (including small business).

Frequency of Response: On occasion.

Estimated Annual Burden: 933 Responses, 80 hours each (average).

Needs of Uses: Filing is required to apply for assignment of a broadcast station construction permit or license. The data is used to determine whether the assignee meets basic statutory requirements.

OMB No.: 3060-0032.

Title: Application for Consent to Transfer of Control of Corporation Holding Broadcast Station Construction Permit or License.

Form No.: FCC 315.

Action: Revision.

Respondents: Business (including small business).

Frequency of Response: On occasion.

Estimated Annual Burden: 933 Responses, 80 hours each (average).

Needs of Uses: Filing is required to apply for consent to transfer of control of corporation holding a broadcast station construction permit or license. The data is used to determine whether transferee meets basic statutory requirements.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 89-14058 Filed 6-13-89; 8:45 am]

BILLING CODE 6712-01-M

[Report No. 1782]

Petitions for Reconsideration and Clarification and Motions for Stay of Actions in Rule Making Proceedings

June 2, 1989.

Petitions for reconsideration and clarification have been filed in the Commission rule making proceeding listed in this Public Notice and published pursuant to 47 CFR § 1.429(e). The full text of these documents are available for viewing and copying in Room 239, 1919 M Street, NW., Washington, DC, or may be purchased from the Commission's copy contractor International Transcription Service (202-857-3800). Oppositions to these petitions must be filed June 30, 1989.

See Section 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Review of Technical Parameters for FM Allocation Rules of Part 73, Subpart B, FM Broadcast Stations. (MM Docket No. 86-144). Number of petitions received: 1.

Subject: Amendment of § 73.202(b), Table of Allotments, FM Broadcast Stations. (Lexington, Michigan) (MM Docket No. 88-255, RM-6211). Number of petitions received: 1.

Subject: Amendment of Part 97 of the Commission's Rules to Permit Use of the 17 Meter Band by the Amateur Radio Services. (PR Docket No. 88-467) Petitioner requests that Novice and Technician Class operators be permitted to operate between 18068—18110 kHz using emisions A1A & F1B. Number of petitions received: 1.

Subject: Revision of Part 15 of the Rules Regarding the Operation of Radio Frequency Devices Without an Individual License. (General Docket No. 87-389, RM's 5193, 5250 & 5575). Number of petitions received: 19.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 89-14057 Filed 6-13-89; 8:45 am]

BILLING CODE 6712-01-M

Applications for Consolidated Hearing

1. The Commission has before it the following mutually exclusive applications for three new FM stations:

Applicant, City, and State	File No.	MM Docket No.
I.		
A. Eda Gordon; Albuquerque, NM.	BPH-870514MB	89-123
B. Southwest Educational Media Foundation of Texas, Inc.; Albuquerque, NM.	BPED-870515MA.	
C. Enchanted Broadcasting, Inc.; Albuquerque, NM.	BPH-870515MD	
D. Radio Property Ventures; Albuquerque, NM.	BPH-870515MM	
E. Bernalillo Communications, Inc.; Albuquerque, NM.	BPH-870515MY	
F. Radio New Mexico; Albuquerque, NM.	BPH-870515NA	
G. New Mexico/ Capitol Communications, Ltd.; Albuquerque, NM.	BPH-870515NR	
H. ALBU-Q Broadcasting, Ltd.; Albuquerque, NM.	BPH-870515NT	
I. Bradley Broadcasting Ltd.; Albuquerque, NM.	BPH-870515NW	
J. Albuquerque Broadcast Limited Partnership; Albuquerque, NM.	BPH-870515NZ	

Issue Heading and Applicant(s)

1. City coverage A, B, C, D, E, F, G, I, J
2. Financial G
3. (See appendix) J
4. (see appendix) J
5. (see appendix) J
6. (see appendix) J
7. Air hazard F, J
8. Comparative All applicants
9. Ultimate All applicants

Applicant, City, and State	File No.	MM Docket No.
II.		
A. P & S Broadcasting, Inc.; Athol, MA.	BPH-880107MW	89-121
B. Jackson-Neuhoff Partnership; Athol, MA.	BPH-880107ND	

Issue Heading and Applicant(s)

1. Air hazard, B
2. Comparative, A & B
3. Ultimate, A & B

Applicant, City, and State	File No.	MM Docket No.
III.		
A. Kansas Broadcast Limited Partnership; Manhattan, KS.	BPH-871103MA	89-122
B. Little Apple Broadcasting; Manhattan, KS.	BPH-871104MB	

Issue Heading and Applicant(s)

1. (See appendix), A
2. (see appendix), A
3. (see appendix), A
4. (see appendix), A
5. Comparative, Both
6. Ultimate, Both

2. Pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 Fed. Reg. 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

3. If there is any non-standardized issue in this proceeding, the full text of the issue and the applicants to which is applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street NW., Washington, DC 20037. (Telephone (202) 857-3800).

Larry D. Eads,

Chief, Audio Services Division, Mass Media Bureau.

Appendix I (Albuquerque, NM)

3. To determine whether Sonrise Management Services, Inc. is an undisclosed party-in-interest to the application of J (Limited).

4. To determine whether J's (Limited) organizational structure is a sham; and

5. To determine whether J (Limited) violated Section 1.65 of the Commission's rules, and/or lacked candor, by failing to report the designation of character issues against other applicants in which one or more of its partners has an ownership interest and/or the dismissal of such ownership interest and/or the dismissal of such applications with unresolved character issues pending.

6. To determine, from the evidence adduced pursuant to issues 3 through 5 above, whether J (Limited) possesses the basic qualifications to be a licensee of the facilities sought herein.

Appendix II (Manhattan, Kansas)

1. To determine whether Sonrise Management Services, Inc. is an undisclosed party-in-interest to the application of A (KBLP).

2. To determine whether A's (KBLP's) organizational structure is a sham.

3. To determine whether A (KBLP) violated Section 1.65 of the Commission's rules, and/or lacked candor, by failing to report the designation of character issues against other applicants in which one or more of its partners has an ownership interest and/or the dismissal of such ownership interest and/or the dismissal of such applications with unresolved character issue pending.

4. To determine, from the evidence adduced pursuant to issues 1 through 3 above, whether a (KBLP) possesses the basic qualifications to be a licensee of the facilities sought herein.

[FR Doc. 89-14056 Filed 6-13-89; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Compliance With Section 507 of the Competitive Equality Banking Act of 1987

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice.

SUMMARY: The Federal Deposit Insurance Corporation hereby gives notice of compliance with section 507 of the Competitive Equality Banking Act of 1987, which requires that the FDIC fully consider the adverse economic impact on local communities of its actions taken during the administration and liquidation of loans of a closed bank, and that the FDIC adopt and publish procedures and guidelines to minimize such adverse economic effects.

FOR FURTHER INFORMATION CONTACT: Steven A. Seelig, Associate Director, Division of Liquidation, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429, (202) 898-7371.

SUPPLEMENTARY INFORMATION:

Compliance With Section 507 of the Competitive Equality Banking Act

On August 10, 1987 President Reagan signed the Competitive Equality Banking Act of 1987. Section 507 of the Act amends section 11 of the Federal Deposit Insurance Act by adding to it Subsection J. This new subsection requires the FDIC to consider the adverse economic impact of its actions on local communities including businesses and farms, during the administration and liquidation of loans of a closed bank.

Section 507(3) of the statute requires the FDIC to adopt guidelines to minimize the adverse economic effects caused by its actions. Specifically, the Corporation is requested to consider actions including the release of proceeds from the sale of products for living and business expenses and the shortening of the decision making process for the acceptance of settlement offers contingent upon third party financing. The Division's policies and guidelines as contained in its Delegation of Authority and the Credit and Agricultural Manuals address these concerns. Specifically, Bank Liquidation Specialists are directed to refer to the following:

1. *Release of Proceeds* (I.C.5.1, Agricultural Manual). This Section governs FDIC policies permitting the Release of Proceeds resulting from the sale of livestock or crops and permits release of such proceeds when it is in the interest of the Corporation, either in protecting the ongoing business or the FDIC's collateral position. Additionally, releases of proceeds for living expenses may be considered when loans remain secured. This section provides the relevant information necessary to make these decisions as well as providing an expedited format to assure quick approval. In those situations when time is of the essence, verbal approval received from the Regional Office is allowed.

2. *Borrower Requests for Additional Funding* (I.C.6.1, Agricultural Manual). While there are few instances in which the FDIC will advance money for anything other than the protection of collateral, this section provides alternatives to advancing funds which apply to agriculture and other business situations. Assisting the borrower in securing advances from another financial institution is one such alternative. Additionally, in the event of an Emergency Crop Advance Request, emergency case forms are provided to facilitate analysis and achieve expedited approvals.

3. *Delegations of Authority* (Appendix A of the Credit Manual and I.C.7.1 of the Agricultural Manual). The FDIC's Board of Directors amended its Delegations of Authority to enable the Division of Liquidation to more quickly reach decisions regarding credit matters and to reduce the number of decisions in the field which require either Washington or Regional Office approval. Additionally, provisions have been made for Regional Offices to provide furher delegations to each Field Site. These delegations have enhanced the ability of Bank Liquidation

Specialists and liquidation site staffs to obtain the necessary approvals for all credit actions in a timely fashion.

Copies of The Division of Liquidation's Delegations of Authority, Credit Manual and Agricultural Manual are available upon request at the following location: Federal Deposit Insurance Corporation, Office of the Executive Secretary, 550 17th Street NW., Washington, DC 20429.

By order of the Board of Directors.

Dated at Washington, DC, this 6th day of June 1989.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 89-14074 Filed 6-13-89; 8:45 am]

BILLING CODE 6714-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA-829-DR]

Amendment to Notice of a Major Disaster Declaration; Louisiana

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Louisiana (FEMA-829-DR), dated May 20, 1989, and related determinations.

DATES: June 8, 1989.

FOR FURTHER INFORMATION CONTACT: Neva K. Elliott, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472 (202) 646-3614.

Notice: The notice of a major disaster for the State of Louisiana, dated May 20, 1989, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of May 20, 1989:

The parishes of Acadia, East Feliciana, Franklin, Grant, LaSalle, Madison, St. Landry, and Vermillion for Individual Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

George H. Orrell,

Acting Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 89-14126 Filed 6-13-89; 8:45 am]

BILLING CODE 6718-02-M

[FEMA-830-DR]

Major Disaster and Related Determinations; Maine

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Maine (FEMA-830-DR), dated June 7, 1989, and related determinations.

DATES: June 7, 1989.

FOR FURTHER INFORMATION CONTACT: Neva K. Elliott, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472 (202) 646-3614.

Notice: Notice is hereby given that, in a letter dated June 7, 1989, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*, Pub. L. 93-288, as amended by Pub. L. 100-707), as follows:

I have determined that the damage in certain areas of the State of Maine, caused by severe storms and flooding on May 5-13, 1989, is of sufficient severity and magnitude to warrant a major disaster declaration under Public Law 93-288, as amended by Public Law 100-707. I, therefore, declare that such a major disaster exists in the State of Maine.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance in the designated areas. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under Pub. L. 93-288, as amended by Pub. L. 100-707, for Public Assistance will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Albert A. Gammal, Jr. of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Maine to have been affected adversely by this declared major disaster:

The counties of Androscoggin, Cumberland, Franklin, and Oxford for Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Julius W. Becton, Jr.,

Director, Federal Emergency Management Agency.

[FR Doc. 89-14127 Filed 6-13-89; 8:45 am]

BILLING CODE 6718-21-M

[FEMA-828-DR]

Amendment to Notice of a Major Disaster Declaration; Texas

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Texas (FEMA-828-DR), dated May 19, 1989, and related determinations.

DATE: June 8, 1989.

FOR FURTHER INFORMATION CONTACT: Neva K. Elliott, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472 (202) 646-3614.

Notice: The notice of a major disaster for the State of Texas, dated May 19, 1989, is hereby amended to add Public Assistance in the following areas determined to have been adversely affected by catastrophe declared a major disaster by the President in his declaration of May 19, 1989:

The counties of Angelina, Bell, Collin, Cooke, Dallas, Ellis, Fannin, Grayson, Hardin, Harris, Henderson, Hill, Hood, Jasper, Johnson, Kaufman, Liberty, McLennan, Montague, Montgomery, Nacogdoches, Navarro, Newton, Orange, Palo Pinto, Parker, Polk, Rusk, Sabine, Smith, Tarrant, Upshur, Williamson, and Wise for Public Assistance.

George H. Orrell,

Acting Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

[FR Doc. 89-14128 Filed 6-13-89; 8:45 am]

BILLING CODE 6718-02-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.: 224–200180–001
Title: Jackson County Port Authority Terminal Agreement
Parties: Jackson County Port Authority Board of Supervisors of Jackson County (County), Ryan-Walsh, Inc. (RW)
Synopsis: The Agreement amends the basic agreement (224–200180) to specify that any amendments to rentals negotiated shall not be made a permanent part of the Agreement until approved by the Commission. The basic agreement provides for RW's lease of County's Terminals G and H at the Port of Pascagoula.

By Order of the Federal Maritime Commission.
Dated: June 8, 1989.
Joseph C. Polking,
Secretary.

[FR Doc. 89–14079 Filed 6–13–89; 8:45 am]
BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Agency Forms Under Review

June 7, 1989.

Background

On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board of Governors of the Federal Reserve System (Board) its approval authority under the Paperwork Reduction Act of 1980, as per CFR 1320.9, "to approve of and assign OMB control numbers of collection of information requests and requirements conducted or sponsored by the Board under conditions set forth in 5 CFR 1320.9." Board-approved collection of information will be incorporated into the official OMB inventory of currently approved collections of information. A copy of the SF 83 and supporting statement and the approved collection of information instrument(s) will be placed into OMB's public docket files. The following report, which is being handled under this delegated authority, has received initial Board approval and is hereby published for comment. At the end of the comment period, the proposed information collection, along with an analysis of comments and recommendations received, will be submitted to the Board for final approval under OMB delegated atuhority.

DATE: Comments must be received within ten calendar days of the date of publication in the **Federal Register.**

ADDRESS: Comments, which should refer to the OMB Docket number should be addressed to Mr. William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551, or delivered to room B–2223 between 8:45 a.m. and 5:15 p.m. Comments received may be inspected in room B–1122 between 8:45 and 5:15 p.m. except as provided in section 261(a) of the Board's Rules Regarding Availability of Information, 12 CFR 261.6(a).

A copy of the comments may also be submitted to the OMB Desk Officer for the Board: Gary Waxman, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: A copy of the request for clearance (SF83), supporting statement, and other documents that will be placed into OMB's public docket files once approved may be requested from the agency clearance officer, whose name appears below. Federal Reserve Board Clearance Officer—Frederick J. Schroeder—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202–452–3822).

Proposal to Approve Under OMB Delegated Authority the Implementation of the Following Report:

Report title: 1989 Survey of Consumer Finances
Agency form number: FR 3059
OMB Docket number: 7100–0243
Frequency: One-time
Reporters: Sample of households nationwide
Annual reporting hours: 3600
Estimated average time per response: 80 minutes
Number of respondents: 2700
Small businesses are not affected.

General Description of Report

This information collection is voluntary (12 U.S.C. 225a, 1828(c), 1842 and 1843). No problem of confidentiality arises since names and other characteristics that would permit personal identification of respondents will not be provided to survey sponsors.

This survey will collect data on the assets, debts, income, work history, pension rights, use of financial services, and attitudes of a sample of U.S. households. It will consist of in-pereson interviews from a sample of approximately 2700 households.

Board of Governors of the Federal Reserve System, June 7, 1989.
William W. Wiles,
Secretary of the Board.

[FR Doc. 89–14097 Filed 6–13–89; 8:45 am]
BILLING CODE 6210–01–M

Agency Forms Under Review

June 8, 1989.

Background

On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board of Governors of the Federal Reserve System (Board) its approval authority under the Paperwork Reduction Act of 1980, as per 5 CFR 1320.9, "to approve of and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board under conditions set forth in 5 CFR 1320.9." Board-approved collection of information will be incorporated into the official OMB inventory of currently approved collections of information. A copy of the SF 83 and supporting statement and the approved collection of information instrument(s) will be placed into OMB's public docket files. The following report, which is being handled under this delegated authority, has received initial Board approval and is hereby published for comment. At the end of the comment period, the proposed information collection, along with an analysis of comments and recommendations received, will be submitted to the Board for final approval under OMB delegated authority.

DATE: Comments must be received within fifteen working days of the date of publication in the **Federal Register.**

ADDRESS: Comments, which should refer to the OMB Docket number should be addressed to Mr. William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551, or delivered to room B–2223 between 8:45 a.m. and 5:15 p.m. Comments received may be inspected in room B–1122 between 8:45 and 5:15 p.m. except as provided in section 261(a) of the Board's

Rules Regarding Availability of Information, 12 CFR 261.6(a).

A copy of the comments may also be submitted to the OMB desk officer for the Board: Gary Waxman, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: A copy of the request for clearance (SF 83), supporting statement, and other documents that will be placed into OMB's public docket files once approved may be requested from the agency clearance officer, whose name appears below. Federal Reserve Board Clearance Officer—Frederick J. Schroeder—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202–452–3822).

Proposal to Approve Under OMB Delegated Authority the Extension, Without Revision, of the Following Report

Report title: Government Securities Dealers Reports
Agency form number: FR 2004 a, b, c, and d
OMB Docket number: 7100–0003
Frequency: Weekly, Daily, Semi-monthly
Reporters: Primary dealers in U.S. government securities
Annual reporting hours: 33,472
Estimated average hours per response: 1.10 to 1.33
Estimated number of respondents: 43
Small businesses are not affected.

General Description of Report

This information collection is voluntary (12 U.S.C. 248(a)(2) and 353–359(a)) and is given confidential treatment (5 U.S.C. 552(b)(4)).

This group of reports submitted by Government Securities Dealers are used to collect daily positions, daily transactions, weekly financings and semi-monthly futures, forwards, and options data from the primary dealers in U.S. Treasury Securities. The data are used to assist in the appraisal of the financial health of reporting dealers, the soundness of their trading practices, and the adequacy of their market-making in all segments of the market.

Board of Governors of the Federal Reserve System, June 8, 1989.

William W. Wiles,

Secretary of the Board.

[FR Doc. 89–14093 Filed 6–13–89; 8:45 am]

BILLING CODE 6210–01–M

Roger L. Siegert et al.; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they 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 indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than June 28, 1989.

A. **Federal Reserve Bank of Chicago** (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Roger L. Siegert*, Plymouth, Wisconsin, and Barbara A. Siegert, Plymouth, Wisconsin; to increase their percent of the ownership to 15.63 percent of Eastern Wisconsin Bancshares, Howards Grove, Wisconsin, as a result of a stock redemption, and thereby indirectly acquire State Bank of Howards Grove, Howards Grove, Wisconsin.

B. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Rick L. Caruthers*, Cherokee, Oklahoma; to acquire 12.10 percent; Orvel H. Fellers, Byron, Oklahoma; Ronald R. Hadwiger, Cherokee, Oklahoma; Larry Hammer, Cherokee, Oklahoma; Lyle Hawkins, Cherokee, Oklahoma; Earl W. Morgan, Cherokee, Oklahoma; and Ray N. Smith, Byron, Oklahoma; to each acquire an additional 1.44 percent of the voting shares of Farmers Exchange Bancorporation, Inc., Cherokee, Oklahoma, for a total of 12.10 percent, and thereby indirectly acquire Farmers Exchange Bank, Cherokee, Oklahma.

C. **Federal Reserve Bank of Dallas** (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Joseph A. Burke*, Orange, Texas; to acquire 11.98 percent; Peter F. Cloeren, Jr., Orange, Texas; to acquire 7.98 percent; Anton Dal Sasso, Orange, Texas; to acquire 7.98 percent; Michael M. Lucia, Jr., Orange, Texas; to acquire 7.98 percent; Mary Lou Mott, Beaumont, Texas; to acquire 15.97 percent; Lew C. Sheffler, Orange, Texas; to acquire 7.98 percent; William P. Sterling, Jr., Orange, Texas; to acquire 7.98 percent; Carlos Ray Vacek, Orange, Texas; to acquire 11.98 percent; and Earl C. Wright, Jr., Orange, Texas; to acquire 11.96 percent of the voting shares of Unicorp Bancshares-Texas, Inc., Orange, Texas, and thereby indirectly acquire Orangebank, Orange, Texas.

2. *Charles R. Wiggins*, Liberty, Texas; to acquire 29.19 percent; and Hillary G. Wiggins, Liberty, Texas, to acquire 29.19 percent of the voting shares of First Liberty National Bancshares, Inc., Liberty, Texas, and thereby indirectly acquire First Liberty National Bank, Liberty, Texas.

D. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Capital City Bank Profit Sharing Plan*, Salt Lake City, Utah; to acquire 15:9 percent of the voting shares of Capital Bancorp, Salt Lake City, Utah, and thereby indirectly acquire Capital Bank, Salt Lake City, Utah.

Board of Governors of the Federal Reserve System, June 8, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89–14099 Filed 6–13–89; 8:45 am]

BILLING CODE 6210–01–M

Somerset Bankshares, 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 recived not later than July 5, 1989.

A. **Federal Reserve Bank of Boston** (Robert M. Brady, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *Somerset Bankshares, Inc.*, Somerville, Massachusetts, to acquire 100 percent of the voting shares of Central Co-operative Bank, Somerville, Massachusetts.

B. **Federal Reserve Bank of Chicago** (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Minonk Bancshares, Inc.*, Minonk, Illinois; to acquire 100 percent of the voting shares of Citizens Group, Inc., Toluca, Illinois, and thereby indirectly acquire The Citizens National Bank of Toluca, Toluca, Illinois.

C. **Federal Reserve Bank of St. Louis** (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Reelfoot Bancshares, Inc.*, Union City, Tennessee; to acquire at least 82.99 percent of the voting shares of Dixie Bancshares, Inc., Dukedom, Tennessee, and thereby indirectly acquire Dukedom Bank, Dukedom, Tennessee, which engages in the sale, as agent, of credit related insurance sold in connection with extensions of credit made by the bank.

2. *Reelfoot Bancshares, Inc.*, Union City, Tennessee; to acquire 100 percent of the voting shares of Fulton Bancshares, Inc., Fulton, Kentucky, and thereby indirectly acquire Fulton Bank, Fulton, Kentucky, which engages in the sale, as agent, of credit related insurance sold in connection with extensions of credit made by the bank.

D. **Fedreal Reserve Bank of Kansas City** (Thomas M. Hoenig, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *First Universal Bancorporation, Inc.*, Aurora, Colorado; to merge with Pioneer Bancorporation, Inc., Denver, Colorado, and thereby indirectly acquire City Center National Bank, Denver, Colorado, which engages in the sale of credit-related life and accident and health insurance only. Comments on this application must be received by June 30, 1989!

2. *Fourth Financial Corporation*, Wichita, Kansas; to acquire 100 percent of the voting shares of Exchange Holding, Inc., El Dorado, Kansas, and thereby indirectly acquire The First National Bank and Trust Company, El Dorado, Kansas, which engages in the sale of credit-related life and accident and health insurance only, except the bank's branch office in Burns, Kansas, a town with a population of less than 5,000 sells general lines of insurance. Comments on this application must be received by June 23, 1989!

E. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *BankAmerica Corporation*, San Francisco, California, and Seafirst Corporation, Seattle, Washington; to acquire American Savings Financial Corporation, Tacoma, Washington, and thereby indirectly acquire American Savings Bank, Tacoma, Washington.

Board of Governors of the Federal Reserve System, June 8, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-14100 Filed 6-13-89; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Anti-Drug Abuse Act of 1988; Delegation of Authority

Notice is hereby given that I have delegated to the Assistant Secretary for Health, with authority to redelegate, all the authorities vested in the Secretary under Title II, Section 2071 and 2073 and Title III, Section 3521 of the Anti-Drug Abuse Act of 1988, Public Law 100-690, as amended hereafter. This delegation excludes the authority to promulgate regulations and to submit reports to Congress.

This delegation became effective upon the date of signature. In addition, I hereby affirm and ratify any actions taken by the Assistant Secretary for Health and his subordinates which involved the exercise of the delegated authorities prior to the effective date of delegation.

Date: May 26, 1989.

Louis W. Sullivan,

Secretary.

[FR Doc. 89-14062 Filed 6-13-89; 8:45 am]

BILLING CODE 4160-20-M

Food and Drug Administration

[Docket No. 88D-0347]

FDA Access to Results of Quality Assurance Program Audits and Inspections; Compliance Policy Guide; Availability

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of Compliance Policy Guide (CPG) 7151.02, "FDA Access to Results of Quality Assurance Program Audits and Inspections." The CPG has been revised to clarify that FDA will not review or copy reports and records that result from audits and inspections conducted under a written quality assurance program. The CPG further clarifies that FDA will continue to review and copy records and reports related to quality control investigations of product failures and manufacturing errors.

ADDRESSES: Submit written requests for single copies to CPG 7151.02 to the Division of Compliance Policy (HFC-230), Food and Drug Administration, Rm. 12A-55, 5600 Fishers Lane, Rockville, MD 20857. Requests should be identified with the docket number found in brackets in the heading of this document. Send two self-addressed adhesive labels to assist the division in processing your requests. CPG 7151.02 is available for public examination in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Paul Lepore, Division of Compliance Policy (HFC-230), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-2390.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of March 24, 1989 (54 FR 12285), FDA announced a revision of CPG 7151.02, "Inspectional Authority; Access to Results of Internal Quality Assurance Audits." The CPG was revised to clarify the agency's policy regarding inspection or copying of reports and records related to audits performed in accordance with a written quality assurance program.

Subsequent to the revision announced on March 24, 1989, FDA received requests for clarification regarding the intent and applicability of the policy. In response to the requests, FDA conducted a comprehensive review of the policy and determined that, to assure consistent interpretation, further revision was necessary. Thus, CPG 7151.02 was retitled, "FDA Access to Results of Quality Assurance Program Audits and Inspections" and was revised to express the following policy:

FDA will not review or copy reports and records that result from audits and inspections of a written quality

assurance program, including written status reports required by 21 CFR 58.35(b)(4) and audits conducted under 21 CFR 820.20(b). This policy applies to any regulated entity which has a written quality assurance program that provides for periodic audits or inspections.

FDA may seek written certification that such aduits and inspections have been implemented, performed, and documented and that any required corrective action has been taken. District personnel have been advised to consult with the appropriate headquarters office prior to seeking written certification.

In addition, FDA may seek access to reports and records of such audits and inspections during a "directed" or "for-cause" inspection of a sponsor or monitor of a clinical investigation, during litigation (under applicable procedural rules), or by an inspection warrant where access to records is authorized by statute.

FDA will continue to review and copy records and reports related to quality control investigations of product failures and manufacturing errors.

This notice is issued under 21 CFR 1085.

Dated: June 5, 1989.

John M. Taylor,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 89-14094 Filed 6-13-89; 8:45 am]

BILLING CODE 4160-01-M

National Institutes of Health

National Cancer Institute; Amended Meeting

Notice is hereby given to amend the meeting of the Acrylonitrile Study Advisory Panel which was published in the **Federal Register** (54 FR 12684) on March 28, 1989.

The meeting of this Panel originally scheduled for June 8, 1989 is now being re-scheduled for June 28, 1989, Conference Room H, Executive Plaza North, 6130 Executive Blvd., Rockville, Maryland 20892. The meeting will be open from 10 a.m. to adjournment for discussion and review of the study progress. Attendance by the public will be limited to space available.

Date: June 8, 1989.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 89-14051 Filed 6-13-89; 8:45 am]

BILLING CODE 4140-01-M

National Digestive Diseases Advisory Board Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Digestive Diseases Advisory Board on July 24, 1989, from 8:00 a.m. to approximately 5 p.m. at the Crystal City Marriott, 1999 Jefferson Davis Highway, Arlington, Virginia 22032. The meeting, which will be open to the public, is being held to discuss the Board's activities and to continue evaluation of the implementation of the long-range digestive diseases plan. Attendance by the public will be limited to space available. Notice of the meeting room will be posted in the hotel lobby.

Mr. Raymond M. Kuehne, Executive Director, National Digestive Diseases Advisory Board, 1801 Rockville Pike, Suite 500, Rockville, Maryland 20852, (301) 496-6045, will provide on request an agenda and roster of the members. Summaries of the meeting may also be obtained by contacting his office.

Dated: June 7, 1989.

Betty Beveridge,

NIH Committee Management Officer.

[FR Doc. 89-14052 Filed 6-13-89; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

ES-970-09-4120-04; ALES 39970

Invitation, Coal Exploration License; Alabama

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Invitation/Coal Exploration License.

SUMMARY: Any and all persons are invited to participate in the exploration plan for proposed Coal Exploration License ALES 39970.

ADDRESS: The license application is available for inspection at the Bureau of Land Management, Eastern States Office, 350 South Pickett Street, Alexandria, Virginia 22304.

FOR FURTHER INFORMATION CONTACT: Any person seeking to participate in this exploration plan should notify Ivy Garcia at the above Bureau of Land Management office and the applicant listed below in writing within 30 days after the publication of this notice in the **Federal Register**.

SUPPLEMENTARY INFORMATION: License Application ALES 39970 was filed by Chevron U.S.A. Inc., 6400 South Fiddlers Green Circle, Englewood, Colorado 80111, for the following lands in Fayette County, Alabama:

T. 16 S., R. 10 W., Huntsville Meridian
Sec. 14: S½NE¼, SE¼NW¼, NE¼SW¼, E½NW¼SW¼, W½NW¼SW¼, S½SW¼, N½SE¼;
Sec. 15: NE¼SE¼;
Sec. 21: NE¼, NE¼SW¼, SE¼;
Sec. 22: SW¼NE¼, NE¼NW¼, S½NW¼, N½SW¼, SW¼SW¼, W½SE¼, SE¼SE¼, S½NE¼SE¼, less and except a 1 acre cemetery tract, NW¼NE¼SE¼, S½NE¼NE¼SE¼;
Sec. 23: NW¼, less and except a 2 acre tract in the SW¼ corner SW¼SW¼;
Sec. 26: NW¼NW¼;
Sec. 27: S½NE¼, W½NW¼, SE¼NW¼;
Sec. 28: E½NE¼.

Total Acres: 1,712 more or less.

Terry L. Plummer,

Acting State Director.

[FR Doc. 89-14108 Filed 6-13-89; 8:45 am]

BILLING CODE 4310-GJ-M

[OR110-6310-11 OR910-GP9-240]

Medford District Advisory Council; Meeting

Notice is hereby given in accordance with Pub. L. 99-463 that a meeting of the Bureau of Land Management, Medford District Advisory Council will be held July 6, 1989.

On July 6, the meeting will begin at 9:00 a.m., in the Oregon Room of the Bureau of Land Management Office at 3040 Biddle Road, Medford, Oregon. The agenda for the meeting will include:

Effect of the Northern Spotted Owl issue on the availability of timber on the Medford District.

Persons interested in making oral statements during the Council meeting, may do so following conclusion of the Council's other agenda items, or written statements may be submitted for the Council's consideration.

Anyone wishing to make an oral statement at the Council meeting must notify the District Manager, Bureau of Land Management, 3040 Biddle Road, Medford, Oregon 97504, by close of business July 5, 1989. Depending on the number of persons wishing to make oral statements, a per-person time limit may be established by the District Manager.

Summary minutes of the Council meeting will be maintained in the District Office and be available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

Date signed: June 2, 1989.

David A. Jones,

District Manager.

[FR Doc. 89-14119 Filed 6-13-89; 8:45 am]

BILLING CODE 4310-33-M

[OR-100-84-6310-02; GP9-244]

Roseburg District Advisory Council; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: The District Advisory Council for the Bureau of Land Management, Roseburg District will meet July 18, 1989, beginning at 10:00 a.m. in the Roseburg District Office Auditorium. The agenda will cover election of officers, orientation of new members, progress on the Resource Management Plan for the '90s, the North Umpqua Trail, Wild and Scenic status for the North Umpqua River, inmate work projects, FY 90 Timber Sale Plan, and an update on the spotted owl.

ADDRESS: Bureau of Land Management, Roseburg District Office, 777 NW Garden Valley Blvd., Roseburg, OR 97470.

FOR FURTHER INFORMATION CONTACT: Mel Ingeroi, Public Affairs Specialist, Roseburg District, (503) 672-4491. Ext. 245.

SUPPLEMENTARY INFORMATION: An opportunity for interested persons to make oral statements before the Council will be provided at 1 p.m. Written statements for the Council can be mailed to the District Manager prior to the meeting or presented to the Council during the meeting. Within 30 days after the meeting, summary minutes will be prepared for distribution and be available for public inspection at the District Office.

M.D. Berg,

District Manager.

Date: June 7, 1989.

[FR Doc. 89-14077 Filed 6-13-89; 8:45 am]

BILLING CODE 4310-84-M

[WY-920-09-4111-15; WYW66103]

Notice of Proposed Reinstatement of Terminated Oil and Gas Lease

Pursuant to the provisions of Pub.L. 97-451, 96 Stat. 2462-2466, and Regulation 43 CFR 3108.2-3(a) and (b)(1), a petition for reinstatement of oil and gas lease WYW66103 for lands in Hot Springs County, Wyoming, was timely filed and was accompanied by all the required rentals accruing from the date of termination.

The lessee has agreed to the amended lease terms for rentals and royalties at rates of $5.00 per acre, or fraction thereof, per year and 16⅔ percent, respectively.

The lessee has paid the required $500 administrative fee and $125 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in Section 31 (d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease WYW66103 effective March 1, 1989, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Pamela J. Lewis,

Supervisory Land Law Examiner.

[FR Doc. 89-14118 Filed 6-13-89; 8:45am]

BILLING CODE 4310-22-M

[UT-942-09-4212-19; U-65091]

Public Lands, and Interest in Lands, Held in Trust for the Confederated Tribes of the Goshute, Indians

AGENCY: Bureau of Land Management, Interior.

ACTION: Correction.

SUMMARY: This notice corrects the Public Lands, and Interest in Lands, Held in Trust for the Confederated Tribes of the Goshute Indians previously published in the May 4, 1989, (Vol. 54 No. 85 FR 19245) **Federal Register**. The Notice is corrected by changing the following legal description to read.

T. 10 S., R. 19 W., SLM
Sec. 4, S½SW¼SE¼NW¼.

Ted D. Stephenson,

Chief, Branch of Land and Mineral Operation.

[FR Doc. 89-14075 Filed 6-13-89; 8:45 am]

BILLING CODE 4310-DQ-M

[NM-040-09-4120-10]

Kansas Resource Management Plan (KS RMP)

AGENCY: Bureau of Land Management, Interior, Tulsa District, Oklahoma.

ACTION: Notice of intent to prepare an RMP, invitation for public involvement, notice of public meetings and call for coal, other minerals and resource information.

SUMMARY: The Bureau of Land Management (BLM), Tulsa District, Oklahoma Resource Area, is initiating preparation of a Resource Management Plan (RMP) and Environmental Impact Statement (EIS) for BLM managed Federal lands and minerals throughout the State of Kansas. Title 43 Code of Federal Regulations (CFR) 1600 will be followed in the preparation of this plan. The public is invited to participate in this land use planning effort beginning with the identification of issues and planning criteria.

Written comments or suggested issues and planning criteria will be accepted until July 26, 1989. The BLM will hold a series of public scoping meetings at which time oral comments and suggestions will be accepted. This Notice is also to solicit coal and other resource information and indications of interest and needs pursuant to 43 CFR 3420.1-2, for inclusion in the Kansas RMP. Coal companies, state and local governments, and the general public are encouraged to submit information to the BLM to assist in the determinations of coal development potential and possible conflicts with other resources. Where such information is determined to indicate development potential for an area, the area may be included in the land use plan for further consideration for leasing.

DATE: Comments relating to the indentification of issues and planning criteria, and to this call for coal and other resource information will be accepted until July 26, 1989.

ADDRESS: Comments and requests to be included on the mailing list should be sent to: Paul Tanner, Area Manager, Bureau of Land Management, Oklahoma Resource Area, 200 NW Fifth Street, Room 548, Oklahoma City, Oklahoma 73102. Proprietary data should be identified as such to ensure confidentiality.

FOR FURTHER INFORMATION CONTACT: Paul W. Tanner, Area Manager, or Brian Mills, RMP Team Leader, Oklahoma Resource Area, (405) 231-5491, or FTS 736-5491.

SUPPLEMENTARY INFORMATION: The planning area for the Kansas RMP will include all BLM managed Federal surface and mineral estate within Kansas. The Federal mineral estate encompasses over 744,000 acres of both split estate minerals (Federal minerals under private or state surface) and minerals under other Federal surface management agencies lands. (Not included are Federal minerals under the U.S. Forest Service managed Cimarron National Grassland).

The anticipated issues to be addressed by this RMP/EIS effort include oil and gas leasing and the identification of areas acceptable for futher consideration for coal leasing.

The issue of leasing the Federal oil and gas resource will include:

1. Determining which areas will be open for leasing and development

subject to standard lease terms and conditions.

2. Determining which areas will be open for leasing and development subject to minor constraints such as seasonal restrictions, (wildlife, recreation, ect. * * *).

3. Determining which areas will be open for leasing and development subject to major constraints such as no-surface occupancy (NSO) stipulations on areas larger than 40 acres in size or more than ¼ mile in width.

4. Determining which areas will be closed to leasing. The development of the coal resource may be one of the issues addressed in the RMP. The BLM hopes to acquire sufficient information from this call, as well as from its own data sources, to identify, and categorize areas of coal development potential within the planning area. Industry and other interested parties are asked to provide any information that will be useful in meeting the requirements of the Federal Coal Management Program defined in 43 CFR 3420, including application of the coal planning screens and future activity planning such as tract delineation, ranking and selection.

Information resulting from this call may be utilized in the application of the unsuitability criteria as well as formulation of other resource use screens.

The type of information needed includes, but is not limited to the following:

1. Location:

a. Tracts desired by mining companies should include a narrative description with areas delineated on a map with a scale of not less than ½ inch to the mile.

b. Descriptions of both public and private industry coal users in the general region.

2. Quantity needs (tonnage, dates) for both public and private industry coal users and coal developers.

3. Quality needs (by type and grade) for end users of the coal.

4. Coal reserve drilling data which may pertain to the planning area.

5. Information relating to surface and mineral ownership:

a. Surface owner consents previously granted, whether consent is transferrable, surface owner leases with coal companies.

b. Non-Federal, or fee coal ownership adjacent to Federal tracts currently leased or mined.

6. Other resource values occurring within the planning area which may conflict with coal development:

a. Identify the resource value, location by narrative description and map (½ inch to the mile) delineation.

b. State the reasons the particular resource would conflict with coal development.

Any individual, business entity, or public body may participate in this process by providing coal or other resource information under this call.

The proposed planning criteria include:

1. All proposed actions must comply with laws, executive orders, and regulations.

2. For each proposed action, the resource outputs must be reasonable and achievable with available technology.

3. All proposed actions must recommend resource allocations which are in accordance with the principles of multiple-use and sustained yield.

4. All proposed actions must evaluate and consider long term benefits to the public in relation to short term benefits.

5. All proposed actions must provide for the orderly development of leasable minerals while containing environmental impacts to a minimum.

These planning issues and criteria are presented for public comment and are subject to change based upon such public comment. Comments should be received by July 26, 1989. The planning team will seek public involvement throughout the planning process. Public scoping meetings to gather comments on the preliminary issues and criteria are scheduled for:

July 18, 1989, 3–5 p.m., Diplomat Room, Embassy Suites Hotel, 10601 Metcalf Road, Overland Park, Kansas

July 19, 1989, 3–5 p.m., Ramada Inn, 1949 North 9th Street, Salina, Kansas

July 20, 1989, 3–5 p.m., Seville Inn, 1400 West U.S. Highway 54, Pratt, Kansas

Complete records of all phases of the planning process will be available for public review at the Oklahoma Resource Area Office, 200 NW 5th Street, Room 548, Oklahoma City, Oklahoma 73102. Draft and final RMP/EIS documents will be available upon request.

Dated: June 8, 1989.

Larry L. Woodard,

State Director.

[FR Doc. 89–14078 Filed 6–13–89; 8:45 am]

BILLING CODE 4310–FB–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 332–227]

Annual Reports on the Impact of the Caribbean Basin Economic Recovery Act on U.S. Industries and Consumers

AGENCY: United States International Trade Commission.

ACTION: Notice of deadline to submit comments in connection with 1988 annual report.

DATE: Comments by June 30, 1989.

FOR FURTHER INFORMATION CONTACT: Lee Tuthill (202–252–1268), Trade Reports Division, Office of Economics, U.S. International Trade Commission, Washington, DC 20436.

BACKGROUND: Section 215(a) of the Caribbean Basin Economic Recovery Act (CBERA) (19 U.S.C. 2704(a)) requires that the Commission submit annual reports to the Congress and the President of the impact of the act. The Commission instituted the present investigation under section 332(b) of the Tariff Act of 1930 (19 U.S.C. 1332(b)) on March 21, 1986, for the purpose of gathering and presenting such information through 1995. Notice of institution of the investigation and the schedule for such reports was published in the **Federal Register** of May 14, 1986 (51 FR 17678). The fourth report, covering calendar year 1988, is to be submitted by September 29, 1989.

In the original notice of investigation, it was announced that, as provided in section 215(b) of the CBERA, the Commission in such reports is required to assess the actual effect of the act on the United States economy generally as well as on appropriate domestic industries and to assess the probable future effect which the act will have on the United States economy generally and on such domestic industries.

WRITTEN SUBMISSIONS: The Commission does not plan to hold a public hearing in connection with the fourth annual report. However, interested persons are invited to submit written statements concerning the matters to be addressed in the report. Commercial or financial information that a party desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of § 201.6 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.6). All written submissions, except for confidential business information, will be made available for inspection by interested persons in the Office of the Secretary to the Commission. To be assured of consideration by the Commission, written statements relating to the Commission's report should be submitted at the earliest practical date and should be received no later than June 30, 1989. All submissions should be

addressed to the Secretary of the Commission at the Commission's office in Washington, DC.

Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 252–1809.

By order of the Commission.

Issued: June 9, 1989.

Kenneth R. Mason,

Secretary.

[FR Doc. 89–14146 Filed 6–13–89; 8:45 am]

BILLING CODE 7020–02–M

[Inv. No. 337–TA–289]

Certain Concealed Cabinet Hinges and Mounting Plates; Commission Decision Not To Review an Initial Determination Finding Seven Respondents in Default

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination (ID) (Order No. 32) issued by the presiding administrative law judge (ALJ) finding seven respondents in default in the above-captioned investigation.

ADDRESSES: Copies of the ID and all other nonconfidential documents filed in connection with this investigation are available for public inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202–252–1000.

FOR FURTHER INFORMATION CONTACT: Calvin Cobb, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202–252–1103.

Hearing impaired individuals are advised that information about this matter can be obtained by contacting the Commission's TDD terminal, 202–252–1810.

SUPPLEMENTARY INFORMATION: On April 4, 1989, pursuant to a motion by complainant Julius Blum Inc., the presiding administrative law judge (ALJ) issued an order (Order No. 22) directing seven respondents—Euro-Tech of New Jersey, A&M Supply Inc. of Florida, L&L Saw & Supply Co. of North Carolina, Trend Distributors of Florida, Metropolitan Millwork Supply Co. of Michigan, Woojin Industrial Co. of Korea, and Sunkyung Ltd. of Korea—to show cause by April 18, 1989, why they should not be found in default. The order to show cause was based on failure by each respondent to respond to the complaint and the notice of investigation, failure by Euro-Tech and Trend to file responses to complainant's discovery requests, and failure by A&M, L&L, Metropolitan, Woojin, and Sunkyung to file notices of appearance. None of the seven respondents attempted to show cause why it should not be held in default. Accordingly, on April 28, 1989, the ALJ issued an ID (Order No. 32) finding each of the seven respondents in default for failure to respond to Order No. 22, and ordering that each has waived its right (i) to appear in the investigation, (ii) to contest the allegations at issue in the investigation, and (iii) to be served with documents by the parties.

This section is taken under the authority of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337), and § 210.53 of the Commission's Interim Rules of Practice and Procedure (53 FR 33070, Aug. 29, 1988).

By order of the Commission.

Issued: June 5, 1989.

Kenneth R. Mason,

Secretary.

[FR Doc. 89–14147 Filed 6–13–89; 8:45 am]

BILLING CODE 7020–02–M

Certain Cryogenic Ultramicrotome Apparatus and Components Thereof; Determination Not To Review Initial Determination Terminating Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Nonreview of initial determination terminating the above-captioned investigation.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination (ID) terminating the investigation.

FOR FURTHER INFORMATION CONTACT: Paul R. Bardos, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E. St., SW., Washington, DC 20436, Room 707M, telephone 202–252–1102. Hearing-impaired individuals are advised that information about this matter can be obtained by contacting the Commission's TDD terminal at 202–252–1810.

SUPPLEMENTARY INFORMATION: The authority for the Commission's disposition of this matter is contained in section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR Part 210 (interim)).

On May 12, 1989, the presiding administrative law judge issued an initial determination (ID) (Order No. 16) granting complainant's motion to terminate the investigation under Commission rule 210.51 (19 CFR 210.51 (interim)). No petitions for review or Government agency comments have been received.

Notice of this investigation was published in the **Federal Register** on September 17, 1986 (51 FR 32972, September 17, 1986).

Copies of all non-confidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington DC 20436, telephone 202–252–1000.

By Order of the Commission.

Issued: June 8, 1989.

Kenneth R. Mason,

Secretary.

[FR Doc. 89–14148 Filed 6–13–89; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 22–50]

Ice Cream; Notice of Investigation

AGENCY: United States International Trade Commission.

ACTION: Institution of an investigation under section 22(d) of the Agricultural Adjustment Act (7 U.S.C. 624(d)) and scheduling of a hearing to be held in connection with the investigation.

SUMMARY: On May 18, 1989, the Commission received a letter from the President stating that the President had been advised by the Secretary of Agriculture, and that he agreed with the Secretary, "that there is reason to believe that the country allocations of the quota on ice cream and mixtures classifiable as ice cream, wherever classified in the Harmonized Tariff Schedule of the United States, which were established under section 22 by Presidential Proclamation No. 4026, may need to be modified due to changes in the circumstances on which the country allocations were based."

As directed by the President, the Commission has instituted an investigation under section 22(d) of the Agricultural Adjustment Act (7 U.S.C. 624(d)) to determine whether the present country allocations of the quota on ice cream, provided for in subheading 2105.00.00 of the Harmonized Tariff

Schedule of the United States, should be modified to take into account circumstances that have changed since the quota was proclaimed.

The President asked that the Commission report its findings and recommendations at the earliest practicable date. The Commission anticipates submitting its report to the President on August 28, 1989.

For further information concerning the conduct of this investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 201, subparts A through E, and part 204 (19 CFR Parts 201, 204).

EFFECTIVE DATE: May 18, 1989.

FOR FURTHER INFORMATION CONTACT: Brian C. Walters (202–252–1198), Office of Investigations, U.S. International Trade Commission, or Fred Warren (202–252–1311), Agriculture, Fisheries, and Forest Products Division, Office of Industries, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission TDD terminal on 202–252–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–252–1000.

SUPPLEMENTARY INFORMATION:

Participation in the investigation.—Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules (19 CFR 201.11), not later than twenty-one (21) days after the publication of this notice in the **Federal Register**. Any entry of appearance filed after this date will be referred to the Chairman, who will determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Service list.—Pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)), the Secretary will prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance. In accordance with § 201.16(c) of the rules (19 CFR 201.16(c)), each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service.

Hearing—The Commission will hold a hearing in connection with this investigation beginning at 9:30 a.m. on July 18, 1989, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on June 30, 1989. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 9:30 a.m. on July 7, 1989, at the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is July 13, 1989.

Testimony at the public hearing shall be limited to a nonconfidential summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing briefs. Post hearing briefs shall not exceed ten (10) pages of textual material, double spaced, on stationery measuring 8½ x 11 inches, and must be submitted not later than the close of business on July 25, 1989. In addition, the presiding official may permit persons to file answers to requests made by the Commission at the hearing within a specified time. The Secretary shall not accept for filing posthearing briefs or answers which do not comply with the provisions contained in this notice.

Written submissions.—As mentioned, parties to this investigation may file prehearing and posthearing briefs by the dates shown above. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before July 25, 1989.

A signed original and fourteen (14) copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the Commission's rules (19 CFR § 201.8). All written submissions except for confidential business information will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any information for which confidential treatment is desired shall be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6).

This notice is published pursuant to § 204.4 of the Commission's rules (19 CFR 204.4).

By order of the Commission.

Issued: June 5, 1989.

Kenneth R. Mason,

Secretary

[FR Doc. 89–14149 Filed 6–13–89; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337–TA–281]

Certain Recombinant Erythropoietin; Order

It is hereby ordered That:

1. Orders Nos. 28 and 30 of the presiding administrative law judge are deemed to be recommended determinations, and will be reviewed by the Commission.

2. The stay of Order No. 28 issued by the Commission on February 15, 1989, is lifted and is replaced by a stay that will remain in effect until the Commission has issued its final determination on review of Order No. 28.

3. The stay of Order No. 30 issued by the Commission on March 27, 1989, will remain in effect until the Commission has issued its final determination on review of Order No. 30.

4. The motion of Amgen, Inc., requesting reconsideration of the Commission's Order staying Order No. 28, is granted.

5. The parties to the investigation may file briefs addressing the proprietary of declassifying and releasing the documents and findings of fact covered by Orders Nos. 28 and 30. Main briefs must be filed on or before June 30, 1989; reply briefs must be filed on or before July 21, 1989.

By order of the Commission.

Issued: June 8, 1989.

Kenneth R. Mason,

Secretary.

[FR Doc. 89–14150 Filed 6–13–89; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 731–TA–433 (Preliminary)]

Certain Residential Door Locks From Taiwan

Determination

On the basis of the record [1] developed in the subject investigation, the

[1] The record is defined in § 207.2(h) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(h) as amended in 53 FR 33039 (Aug. 29, 1988)).

Commission determines,[2] pursuant to section 733(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1673b(a)), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from Taiwan of certain residential door locks,[3] that are alleged to be sold in the United States at less than fair value (LTFV).

Background

On April 24, 1989, a petition was filed with the Commission and the Department of Commerce by the Ad Hoc Committee of Door Lock Manufacturers,[4] New York, NY, alleging that an industry in the United States is materially injured and threatened with material injury by reason of LTFV imports of residential door locks from Taiwan. Accordingly, effective April 24, 1989, the Commission instituted preliminary antidumping investigation No. 731–TA–433 (Preliminary).

Notice of the institution of the Commission's investigation and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of May 2, 1989 (54 FR 18707). The conference was held in Washington, DC, on May 15, 1989, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on June 8, 1989. The views of the Commission are contained in USITC Publication 2198 (June 1989), entitled "Certain Residential Door Locks from Taiwan: Determination of the Commission in Investigation No. 731–TA–433 (Preliminary) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigation.

By Order of the Commission.

Issued: June 9, 1989.

Kenneth R. Mason,

Secretary.

[FR Doc. 89–14151 Filed 6–13–89; 8:45 am]

BILLING CODE 7020-02-M

[2] Commissioners Eckes and Rohr dissenting.

[3] For purposes of the Commission's investigation, the term "certain residential door locks" includes three categories of residential door locks specified in the Department of Commerce's Notice of Initiation: (1) Tubular of cylindrical knob-type locksets with spring latches or dead latches, whether face-plated or drive-in type, including those with sectional handles, (2) dead locks, whether face-plated or drive-in type, the foregoing provided for in subheading 83091.40.60 of the Harmonized Tariff Schedule of the United States (HTS) and statistical reporting number 8301.40.6060 (previously reported under item 646.9210 of the *Tariff Schedules of the United States Annotated (TSUSA)*). See 54 FR 21998 (May 22, 1989).

[4] The petitioning Ad Hoc Committee of Door Lock Manufacturers includes the following firms: Dexter Lock, Auburn, AL; Kwikset Corp., Anaheim, CA; National Lock Corp., Sikeston, MO; Schlage Lock Co., San Francisco, CA; Weiser Lock, Huntington Beach, CA; and Weslock Corp., Los Angeles, CA.

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 31479]

Morristown and Erie Railway, Inc.—Trackage Rights—New Hope and Ivyland Railroad Company; Exemption

New Hope and Ivyland Railroad Company (NHI) has agreed to grant to Morristown & Erie Railway, Inc. (ME), local trackage rights over its line from milepost 25.4 at New Hope to milepost 8.0 at Warminster all in Bucks County, PA.

This notice is filed under 49 CFR 1180.2(d)(7).[1] Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction. Pleadings must be filed with the Commission and served on:

John D. Heffner (ME), 1700 K St. NW., Suite 1107, Washington, DC 20006

Andrew P. Goldstein (NHI), 1200 18th St., NW., Washington, DC 20036

As a condition to the use of this exemption, the parties shall within 30 days submit an executed copy of their trackage rights agreement.[2] As a further condition to the use of this exemption, any employees affected by the trackage rights will be protected pursuant to *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

Decided: June 7, 1989.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Kathleen M. King,

Acting Secretary.

[FR Doc. 89–14016 Filed 6–13–89; 8:45 am]

BILLING CODE 7035-01-M

[1] NHI notes that a prior trackage rights agreement with another carrier expired on May 31, 1989, the date this notice was filed. It asks that the 7-day notice period in 49 CFR 1180.4(g)(1) be waived to minimize service interruption. The request is denied. The 7-day notice may be modified only by amending the Commission's rules, an action that requires a decision by the entire Commission. The preparation and voting on such a modification usually requires more than 7 days.

[2] See 49 CFR 1180.6(a)(7).

[Docket No. AB–55 (Sub. 305X)]

CSX Transportation, Inc.; Abandonment Exemption; in Hillsborough County, FL

Applicant has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon its 0.39-mile line of railroad between milepost ARF–861.26 at Harney Avenue and milepost ARF–860.87 at Sligh Avenue, in Tampa, Hillsborough County, FL.

Applicant has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic on the line can be rerouted over other lines; and (3) no formal complaint filed by a user of rail service on the line (or a State or local government entity acting on behalf of such user) regarding cessation of services over the line either is pending with the Commission or with any U.S District Court or has been decided in favor of the complainant within the 2-year period. The appropriate State agency has been notified in writing at least 10 years prior to the filing of this notice.

As a condition to use of this exemption, any employee affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on July 14, 1989 (unless stayed pending reconsideration). Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an offer of financial assistance under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking statements under 49 CFR 1152.29 must be filed by June 26, 1989.[3]

[1] A stay will be routinely issued by the Commission in those proceedings where an informed decision on environmental issues (whether raised by a party or by the Section of Energy and Environment in its independent investigation) cannot be made prior to the effective date of the notice of exemption. *See Exemption of Out-of-Service Rail Lines*, 4 I.C.C. 2d 400 (1988). Any entity seeking a stay involving environmental concerns is encouraged to file its request as soon as possible in order to permit this Commission to review and act on the request before the effective date of this exemption.

[2] *See Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C. 2d 164 (1987), and final rules published in the **Federal Register** on December 22, 1987 (52 FR 48440–48446).

[3] The Commission will accept a late-filed trail use statement so long as it retains jurisdiction to do so.

Petitions for reconsideration and requests for public use conditions under 49 CFR 1152.28 must be filed by July 5, 1989, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Patricia Vail, 500 Water Street, Jacksonville, FL 32202.

If the notice of exemption contains false or misleading information, use of the exemption is void *ab initio*.

Applicant has filed an environmental report which addresses environmental or energy impacts, if any, from this abandonment.

The Section of Energy and Environment (SEE) will prepare an environmental assessment (EA). SEE will issue the EA by June 19, 1989. Interested persons may obtain a copy of the EA from SEE by writing to it (Room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling Elaine Kaiser, Acting Chief, SEE at (202) 275–7684. Comments on environmental and energy concerns must be filed within 15 days after the EA becomes available to the public.

Environmental, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: June 7, 1989.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Kathleen M. King,

Acting Secretary.

[FR Doc. 89–14129 Filed 6–13–89; 8:45 am]

BILLING CODE 7035–01–M

Intent To Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. Parent Corporation and address of principal office: Safeway Stores Incorporated, 4th & Jackson Street, Oakland, California 94660.

2. Wholly-owned subsidiaries which will participate in the intercorporate hauling operations, and states of incorporation:

(i) Safeway Canada Holdings, Inc., a Delaware corporation;

(ii) Safeway Australia Holdings, Inc., a Delaware corporation;

(iii) Safeway U.S. Holdings, Inc., a Delaware corporation;

(iv) Safeway Stores, Inc. of Wyoming, a Wyoming corporation;

(v) Glencourt, Inc., a Delaware corporation;

(vi) Canada Safeway, Limited, a Canadian corporation;

(vii) Safeway Stores of W. Nebraska, Inc., a Delaware corporation;

(viii) Salvage, Inc., a Delaware corporation;

(ix) Oakland Property Brokerage, Inc., a Delaware corporation;

(x) Safeway Trucking, Inc., a Delaware corporation;

(xi) Pak-N-Save, Inc., a Delaware corporation;

(xii) Safeway Dallas, Inc., a Delaware corporation;

(xiii) Safeway Denver, Inc., a Delaware corporation;

(xiv) Safeway Richmond, Inc., a Delaware corporation;

(xv) Safeway Southern Califorina, Inc., a Delaware corporation;

(xvi) Safeway Supply, Inc., a Delaware corporation;

(xvii) Safeway New Canada, Inc., a Delaware corporation;

(xviii) Safeway Stores 18, Inc., a Delaware corporation;

(xix) Safeway Stores 26, Inc., a Delaware corporation;

(xx) Safeway Stores 28, Inc., a Delaware corporation;

(xxi) Safeway Stores 31, Inc., a Delaware corporation;

(xxii) Safeway Stores 42, Inc., a Delaware corporation;

(xxiii) Safeway Stores 43, Inc., a Delaware corporation;

(xxiv) Safeway Stores 44, Inc., a Delaware corporation;

(xxv) Safeway Stores 45, Inc., a Delaware corporation;

(xxvi) Safeway Stores 46, Inc., a Delaware corporation;

(xxvii) Safeway Stores 47, Inc., a Delaware corporation;

(xxviii) Safeway Stores 48, Inc., a Delaware corporation;

(xxix) Safeway Stores 49, Inc., a Delaware corporation;

(xxx) Safeway Stores 50, Inc., a Delaware corporation;

(xxxi) Safeway Stores 58, Inc., a Delaware corporation;

(xxxii) Safeway Stores 59, Inc., a Delaware corporation;

(xxxiii) Safeway Stores 64, Inc., a Delaware corporation;

(xxxiv) Safeway Stores 67, Inc., a Delaware corporation;

(xxxv) Safeway Stores 68, Inc., a Delaware corporation;

(xxxvi) Safeway Stores 69, Inc., a Delaware corporation;

(xxxvii) Safeway Stores 70, Inc., a Delaware corporation;

(xxxviii) Safeway Stores 71, Inc., a Delaware corporation;

(xxxix) Safeway Stores 72, Inc., a Delaware corporation;

(xl) Safeway Stores 73, Inc., a Delaware corporation;

(xli) Safeway Stores 74, Inc., a Delaware corporation;

(xlii) Safeway Stores 75, Inc., a Delaware corporation;

(xliii) Safeway Stores 76, Inc., a Delaware corporation;

(xliv) Safeway Stores 77, Inc., a Delaware corporation;

(xlv) Safeway Stores 78, Inc., a Delaware corporation;

(xlvi) Safeway Stores 79, Inc., a Delaware corporation;

(xlvii) Safeway Stores 80, Inc., a Delaware corporation;

(xlviii) Safeway Stores 81, Inc., a Delaware corporation;

(xlix) Safeway Stores 82, Inc., a Delaware corporation;

(l) Safeway Stores 85, Inc., a Delaware corporation;

(li) Safeway Stores 86, Inc., a Delaware corporation;

(lii) Safeway Stores 87, Inc., a Delaware corporation;

(liii) Safeway Stores 88, Inc., a Delaware corporation;

(liv) Safeway Stores 89, Inc., a Delaware corporation;

(lv) Safeway Stores 90, Inc., a Delaware corporation;

(lvi) Safeway Stores 91, Inc., a Delaware corporation;

(lvii) Safeway Stores 92, Inc., a Delaware corporation;

(lviii) Safeway Stores 96, Inc., a Delaware corporation;

(lxi) Safeway Stores 97, Inc., a Delaware corporation;

(lxii) Safeway Stores 98, Inc., a Delaware corporation;

Kathleen M. King,

Acting Secretary.

[FR Doc. 89–14115 Filed 6–13–89; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–3 (Sub-No. 81)]

Missouri Pacific Railroad Co.; Abandonment; Between Opelousas and Church Point in St. Landry Parish and Acadia Parish, LA (Church Point Branch); Findings

The Commission has found that the public convenience and necessity permit Missouri Pacific Railroad Company (MP) to abandon its 12.5 miles of railroad, known as the Church Point Branch, between Opelousas (milepost 36.2) and Church Point (milepost 48.7), in St. Landry Parish and Acadia Parish, LA, subject to standard labor protective conditions.

A certificate will be issued authorizing abandonment unless within 15 days after this publication the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and served on the applicant no later than 10 days from publication of this Notice. The following notation must be typed is bold face on the lower left hand corner of the envelope: "Rail Section, AF–OFA." Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27.

Decided: June 7, 1989.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Andre, Lamboley, and Phillips. Commissioner Lamboley concurred in the result.

Kathleen M. King,

Acting Secretary.

[FR Doc. 89–14116 Filed 6–13–89; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Timothy Ivey, M.D.; Revocation of Registration

On April 5, 1989, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, issued an Order to Show Cause to Timothy Ivey, M.D., proposing to revoke his DEA Certificate of Registration, BI0572265, and to deny any pending applications for its renewal. The Order to Show Cause alleged that the continued registration of Dr. Ivey would be inconsistent with the public interest, as set forth in 21 U.S.C. 823(f) and 824(a).

The Order was sent via registered mail and signed for on behalf of Dr. Ivey. The return receipt was received by the Agency on April 10, 1989. Title 21 of the Code of Federal Regulations 1301.54(a) requires the registrant to file a request for a hearing within 30 days of the date of receipt of the Order. Section 1301.54(d) provides that failure to timely file a request for a hearing acts as a waiver of the hearing. It has been more than 30 days since the receipt of the Order and Dr. Ivey has not filed a request for a hearing. Dr. Ivey is therefore deemed to have waived his opportunity for a hearing before an Administrative Law Judge. Pursuant to 21 CFR 1301.57, the Administrator now issues his Final Order in this matter, based on the information contained in the investigative file.

The Administrator finds that in September 1987, a confidential informant informed DEA Investigators that Dr. Ivey had for some months been supplying various patients with Dilaudid prescriptions knowing they were to be sold on the street. This informant named at least five individuals who regularly bought and sold these prescriptions. The Investigators canvassed area pharmacies and found numerous prescriptions for Dilaudid issued by Dr. Ivey in the names given by the informant. The Investigators interviewed the individuals whose names were on the prescriptions. One individual (person A) denied ever seeing Dr. Ivey but admitted to driving a friend to see Dr. Ivey to obtain a Dilaudid prescription. This friend (person B) was also interviewed. He admitted to regularly obtaining Dilaudid from dealers who boasted that they could get Dilaudid anytime they wished from Dr. Ivey. Person B agreed to obtain a Dilaudid prescription directly from Dr. Ivey. In a tape-recorded buy, person B informed Dr. Ivey that his wife had become addicted to Dilaudid and requested a prescription. Dr. Ivey issued two prescriptions to person B using the name of Person A. Each prescription was for 30 Dilaudid, one dated, the other undated. A week later, Dr. Ivey again prescribed 30 Dilaudid tablets to person B. Both person B and the confidential informant confirmed that Dr. Ivey's prescriptions were regularly bought and sold among a small group of drug dealers who had access to Dr. Ivey. DEA Investigators interviewed another dealer (person C) who advised Investigators that he could buy Dilaudid supplied by Dr. Ivey from another dealer in exchange for cash or stolen merchandise. On several occasions, person C exchanged between $500 to $1,000 in stolen merchandise and received 20 Dilaudid 4mg tablets. This activity occurred on a daily basis for approximately three months. All such Dilaudid came from prescriptions issued by Dr. Ivey.

In September 1988, Dr. Ivey was interviewed by DEA Investigators. He denied any knowledge of an investigation into his prescribing practicies. He admitted that at least four of the individuals selling his Dilaudid prescriptions were patients of his and that others had been referred to him by one of the dealers to whom Dr. Ivey owed money. When asked to provide medical records for these individuals, Dr. Ivey admitted that there were no records. He also admitted to the Investigators that the dealers had informed him of the investigation.

Title 21 U.S.C. 823(f) and 824(a) provide for revocation upon a finding that a registrant has committed acts which would render his registration inconsistent with the public interest. Two factors which may be considered are the registrant's compliance with applicable State, Federal, or local laws relating to controlled substances, and/or such other conduct which may theaten the public health and safety. See section 823(f) (4), (5). The Administrator finds that Dr. Ivey knew or should have known that these prescriptions for Dilaudid were not issued for a legitimate medical purpose and therefore were issued in violation of both Federal and State controlled substance laws. He abused his authority to prescribe controlled substances by supplying Dilaudid which was sold at enormous profit and often in exchange for stolen merchandise. His lack of medical records and untruthfulness to Investigators confirm this abuse. He cannot be trusted to handle controlled substances. Therefore, in order to protect the public from further diversion of controlled substances, the Administrator concludes that Dr. Ivey's registration is contrary to the public interest, that the DEA Certificate of Registration currently held by Dr. Ivey should be revoked, and that any pending applications for renewal of that registration should be denied.

Accordingly, having concluded that there are lawful bases for the revocation of Dr. Ivey's registration, and for the denial of any pending applications for renewal, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), hereby orders that DEA Certificate of Registration, BI0572265, previously issued to Dr. Ivey, be, and it hereby is, revoked. The Administrator further orders that any pending applications for renewal of that registration be, and they hereby are, denied.

This order is effective July 4, 1989.

Dated: June 8, 1989.

John C. Lawn,

Administrator.

[FR Doc. 89–14124 Filed 6–13–89; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Application No. D-710 et al.]

Proposed Exemptions; General American Life Insurance Co., et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Notice of Proposed Exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemptions, unless otherwise stated in the Notice of Pendency, within 45 days from the date of publication of this Federal Register Notice. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption.

ADDRESSES: All written comments and requests for a hearing (at least three copies) should be sent to the Pension and Welfare Benefits Administration, Office of Regulations and Interpretations, Room N-5671, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. Attention: Application No. stated in each Notice of Pendency. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-5507, 200 Constitution Avenue, NW., Washington, DC 20210.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the Federal Register. Such notice shall include a copy of the notice of pendency of the exemption as published in the Federal Register and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of pendency are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

General American Life Insurance Company (General American) Located in St. Louis, MO

(Application No. D-7107)

Proposed exemption

The Department is considering granting an exemption under the authority of section 408 (a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to: (1) The proposed amendment (the Amendment) to an annuity contract (the Contract) and Separate Account agreement entered into by General American and the Carpenters' Pension Trust Fund of St. Louis (the Plan) which will provide that General American will insure that, in the event of a foreclosure upon a mortgage loan note (Note) held by General American's Separate Account No. 3 (the Account), the Account will receive the unpaid principal balance, any due and unpaid interest at the face rate of the Note, and any advances and foreclosure costs with respect to that Note; and (2) the proposed purchase of residential real property (the Property) or delinquent Notes by General American from the Account in accordance with the Amendment, provided that the terms and conditions of the transactions are at least as favorable to the Plan as those between unrelated parties would be.

Summary of Facts and Representations

1. The Plan is a multi-employer pension plan with approximately 10,601 participants as of May 30, 1986 and assets of approximately $214,000,000 as of June 3, 1986.

2. General American is a mutual insurance company organized and operated under the laws of the state of Missouri, with its principal offices in St. Louis, Missouri. It is licensed to do business in Missouri and 48 other states and the District of Columbia. General American is among the forty largest life insurance companies in the United States and, as of December 31, 1985, had over three billion dollars in assets and one billion dollars in pension fund assets under management.

3. The Account was established in February, 1971 specifically to fund the Contract issued to the Plan. The Account has been utilized solely for that purpose. The Account is a "separate account" within the meaning of section 3(17) of the Act. That is, the Account is an account established by General American under which income, gains and losses from the investments allocated to the Account are directly and fully credited to or charged against the Account (and thus the Plan's interest under the Contract) without regard to any other business General American may conduct. The Account is not registered under the Investment Company Act of 1940.

The value of the assets allocated to the Account as of June 3, 1986 was $102,751,253.03. This constituted approximately 48% of the total assets of the Plan as of that date.

The investment policy for the Account is investment in first mortgages secured by Missouri residential property in and around metropolitan St. Louis. Account funds may also be invested on a temporary basis in money market securities.

Mortgages in which the Account invests generally are originated by General American's field investment office in St. Louis and approved by the home office mortgage staff. All loans made by the Account are made in conformance with prevailing market practice. Any commitment fees paid by the borrower are at prevailing market rates and are paid to the Account. In addition, all such loans bear a market interest rate. The amount of each such loan does not exceed 75% of the value of the property securing the loan. As of December 31, 1985, the Account held 1,489 residential mortgage loans with a

total face amount of approximately $85,000,000.[1]

4. The applicant represents that the Account has experienced a negligble delinquency rate on its mortgage loans. For example, in each month between January 1, 1985 and December 31, 1985, an average of only 2.9 loans, and never more than 6 loans (out of more than 1,400), were 45 days or more in arrears. Only one loan became more than 75 days delinquent in 1985, and it was paid in full in January 1986. Loans for which foreclosure proceedings have commenced have, in all cases to date, been satisfied in full prior to a foreclosure sale; in the fifteen years since the Account was established, no mortgage loan held by the Account has been actually foreclosed.

5. The applicant represents that due to concerns that were raised by the Department that the percentage of the Plan's assets invested in St. Louis area residential real estate might increase the investment risk to the Plan, the Plan's trustees (the Trustees) approached General American to insure the repayment of the mortgage investments held by the Account. The Trustees and General American negotiated the terms and conditions of the Amendment, which the Trustees believe to be reasonable and protective of the Plan's interests. In addition, the Trustees have not made any further investment of Plan assets in the Account since March 15, 1985.

6. Under the Amendment, General American will effectuate this insurance by entering a bid at any formal foreclosure sale of the property securing a delinquent Account Note in the amount of the lesser of: (a) The sum of the oustanding principal, accrued interest, advances and costs with respect to the Note; or (b) General American's estimate of the value of the Property being sold. If the foreclosure proceeds are less than the outstanding principal, accrued interest at the specified rate, advances and costs, General American will make a separate payment to the Account in the amount of such deficit. If a foreclosure sale does not occur within the first 180 days of loan delinquency, General American will purchase the Note from the Account for the total of the outstanding principal, accrued interest at the specified rate, advances and costs and then proceed with any foreclosure proceedings for General American's own account. The Trustees will have the right and authority to enforce all the terms of the Contract and the Amendment. Furthermore, the Trustees may terminate the arrangement upon 30 days written notice.

Other than its actions pursuant to the Amendment, General American's procedures with respect to the delinquency and foreclosure of loans made by the Account have been and will remain the same as those used for mortgages made by General American's other separate accounts. The applicant represents that these procedures are the result of General American's experience with mortgage investments for over fifty years. Delinquent loans are typically processed in accordance with these established procedures, although there may be some variation from these procedures where warranted by the circumstances.

7. If the Trustees determine it to be advantageous to the Plan, the Plan will also have the unilateral right either: (1) To bid for the Property for its own account at the foreclosure sale; or (2) to request that the Note be assigned to the Plan as an in-kind withdrawal from the Account (which will be permitted by the Amendment), in order to proceed with foreclosure or other resolution of the delinquency itself without the insurance protection provided by the Amendment.

8. The applicant represents that if General American acquires either the Property at a foreclosure sale or the Note from the Account, General American may or may not be able to recoup the payments made under the Amendment through subsequent satisfaction of the Note or sale of the Property. In any event, however, the Account, and thus the Plan, will receive the full amount of the outstanding principal balance, accrued interest at the specified rate, and advances and costs with respect to the delinquent loan. Accordingly, the Amendment will shift the risk of loss on mortgage loans by reason of the borrower's default from the Plan to General American and thereby will assure that the Plan, and in turn Plan participants, realize no loss and a full return on investments allocated to the Account.

9. In summary, the applicant represents that the proposed transactions satisfy the criteria of section 408(a) because: (a) The risk of loss associated with the investments in the Account will be shifted from the Plan to General American; (b) the Plan will receive no less than the sum of the outstanding principal, accrued interest, advances and costs with respect to any Note which is foreclosed upon; (c) General American will utilize the same procedures in processing delinquent loans in the Account as it does with respect to those in its general and other separate accounts; and (d) the Trustees have the right, responsibility and authority to enforce all the terms and conditions of the Contract and Amendment.

For Further Information Contact: David Lurie of the Department, telephone (202) 523-8671. (This is not a toll-free number.)

[1] The applicant represents that General American makes only commercial mortgage loans on behalf of its general account and that residential mortgage loans are made only on behalf of its qualified plan separate accounts.

National Rural Utilities Cooperative Finance Corporation (CFC) Located in Washington, DC

[Application No. D-7364]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, shall not apply to certain transactions, described in the summary of facts and representations herein, between CFC and certain employee benefit plans (the Plans). CFC may be deemed to be a party in interest with respect to the Plans as a result of providing services to a trust in situations where the assets of the trust are considered to be "plan assets" as a result of the Plans acquiring significant equity interests in the trust in the form of pass-through certificates (the Certificates). The exemption will be effective provided that:

A. The decision by a Plan to engage in the transactions is made by a fiduciary of the Plan which is independent of CFC and the trustee of the trust; and

B. The terms of each such transaction are no less favorable to the Plan than the terms available in a similar transaction involving unrelated parties.

EFFECTIVE DATE: If the proposed exemption is granted, the exemption will be effective July 22, 1987.

Summary of Facts and Representations

1. The transactions for which exemptive relief is requested primarily involve the acquisition of the Certificates by the Plans from CFC or the acquisition and/or holding of CFC debt instruments (CFC Debt) by the Plans in situations where CFC would be considered a party in interest with respect to the Plans. CFC may become a

party in interest under the Act as a result of providing services to a trust, established at the direction of CFC, where the assets of the trust are considered to be "plan assets" as a result of the Plans and other benefit plan investors, in the aggregate, acquiring significant equity interests (i.e., 25 percent or more) in the trust in the form of the Certificates.[2] The Certificates represent undivided fractional interests in a private note (the Private Note) which is held by the trust.

2. CFC is a tax-exempt, not-for-profit cooperative association organized in 1969 under the laws of the District of Columbia. CFC was established by certain non-profit cooperative electric utilities and service organizations (the Cooperatives) to provide the Cooperatives with a source of financing to supplement the loan programs of the Rural Electrification Agency (REA). CFC is a finance company that makes loans to the Cooperatives to enable them to acquire, construct and operate electric distribution, generation, transmission and related facilities. CFC obtains funding for its activities through a variety of means, including the issuance of CFC Debt in Underwritten public offerings. Most CFC long-term loans to the Cooperatives are made in conjunction with concurrent loans from REA and are secured equally and ratably with REA's loans by a single mortgage on the particular Cooperative's property. CFC also provides guarantees for tax-exempt financings of pollution control facilities and other properties constructed or acquired by the Cooperatives. In addition, CFC provides guarantees or other debt in connection with certain leases and other transactions of the Cooperatives. CFC presently has loans outstanding to the Cooperatives in the aggregate principal amount of approximately $3.3 billion, and has guaranteed on behalf of Cooperatives an additional $2.9 billion in obligations.

3. Since enactment of the Rural Electrification Act of 1936 (the RE Act), REA has financed the construction and operation of electric generating plants, transmission facilities and distribution systems in order to provide electricity to persons in rural areas who are without central station service. REA obtains a mortgage on all its borrowers' assets (the REA Mortgage), and generally exercises a high degree of financial and technical supervision over their operations.

During the 1970s, the expanding power requirements of rural consumers in many areas throughout the country resulted in the construction by the Cooperatives of many new generating plants and transmission facilities. To satisfy the major capital requirements for these projects, Congress passed legislation requiring the Federal Financing Bank of the United States Treasury (the FFB) to make long-term loans (the FFB Loans), at interest rates 1/8 of 1% above FFB's own borrowing costs, to the Cooperatives with repayment guaranteed by REA.

Most FFB Loans were made in the late 1970's and early 1980's at rates ranging up to approximately 15%. The applicant states that under current market conditions the FFB Loans could be made at considerably lower rates which would result in significant savings for the Cooperatives.

4. In June 1986, Congress passed legislation permitting rural electric utilities to take advantage of the reductions in interest rates by prepaying their high-interest FFB Loans, without any prepayment penalty or fees, through the issuance of REA-guaranteed debt to private lenders. REA has adopted regulations (the Regulations) implementing the legislation, and has accepted prepayment applications submitted by a number of the Cooperatives.

5. CFC represents that it has formulated a program (the Program) to permit the Cooperatives to refinance their FFB Loans in accordance with the Regulations at competitive rates. REA has approved the Program as complying with the Regulations.

Under the Program, one or more trusts (the Trusts) are established for each Cooperative intending to prepay its FFB Loans. The trustee of each Trust (the Trustee) is a commercial bank having capital and surplus of at least $50,000,000. CFC makes a private loan (the Private Loan) to the Cooperative, the proceeds of which are used to prepay the FFB Loans being refinanced. CFC directs the Cooperative to issue a Private Note evidencing the Private Loan to the separate Trust. The Trust issues to CFC the Certificates, which represent the entire beneficial interest in the Trust. While CFC holds the Certificates, the Private Note bears interest at a variable rate reflecting CFC's cost of funding the Private Loan. CFC resells the Certificates in private placements or to the public in firm commitment underwritings, at which time the rate on the associated Private Note is reset to equal the fixed rate on the Certificates, increased by an amount equal to CFC's servicing fee and expense reimbursement. The Certificate rate is fixed at the lowest rate acceptable to the marketplace that permits the Certificates to be resold by CFC at par. CFC resells the Certificates promptly, unless they cannot be sold bearing rates within the prescribed interest rate ceiling. Scheduled payments on the Private Notes must be sufficient to satisfy the scheduled payments on the Certificates, plus any amounts of servicing fees or other expenses payable by the Trust.

The applicant states that in order to insure that the Cooperatives derive significant benefit from the refinancing of the FFB Loans, the Regulations require that the interest rate on the Private Notes must be at least 50 basis points lower than the weighted average interest rate borne by the FFB Loans being repaid. CFC assumes all risks associated with interest rate fluctuations.

Each Trust's sole investment activity consists of receiving the Private Note, issuing the Certificates on the day of its formation, and collecting payments on the Private Note. The assets of each Trust consists of a single REA-guaranteed Private Note evidencing one Private Loan. The applicant states that in order to obtain the best rates by matching maturities to particular market segments, separate Certificates having sequential maturities are offered through separate Trust (i.e., one Trust receives a Private Note payable by the Cooperative in installments in years 6–10, a second receives a Private Note payable by that Cooperative in years 11–16, etc.). The Trustee is not authorized to modify the right to receive payments on the Certificates or to take any action that would reduce the principal amount or interest rate on the Private Note without the consent of the Certificateholders. No Trust can issue any security other than a single class of Certificates or hold more than a single Private Note.

The applicant states that any default with respect to one Private Note does not permit acceleration by the holder of any other Private Note. The Trust cannot acquire any assets in substitution for the Private Note or sell the Private Note, except in connection with the repayment of the Certificates in full and the termination of the Trust.

6. REA endorses on each Private Note a guarantee (the REA Guarantee) of the timely payment of principal and interest on the Private Note. The RE Act provides that the REA Guarantee is a full faith and credit obligation of the United States. REA is required to pay the Trust the amount of any principal and interest not paid when due on a Private Note within five business days

[2] See 29 CFR 2510.3–101.

of notice from CFC of such default. Although the REA Mortgage secures the Private Note, all rights under the REA Mortgages with respect to the Private Note are held by REA and will not inure to the benefit of CFC, the Trust, or any holder of Certificates.

7. CFC contracts with REA and each Trust to service the Private Loan thereby establishing an agency relationship with respect to the Trustee, as described in the terms of the Trust Agreement.

Under the Trust Agreement, the Trustee appoints CFC as its attorney-in-fact to prosecute any claims to enforce or collect on each Private Note and REA Guarantee. However, CFC as such attorney-in-fact may not rescind, cancel, release, waive or reschedule the right to collect the unpaid balance on any Private Note from the Cooperative or REA.

In administering, servicing and enforcing a Private Note or REA Guarantee, CFC is obligated to exercise the rights and powers vested in it by the Trust Agreement. Prior to a default in payment on a Private Note, CFC is obligated to perform only those duties that are specifically set forth in the Trust Agreement. CFC has no liability for any error of judgment made in good faith, unless it is proved that CFC was negligent in ascertaining the pertinent facts, or with respect to any action it takes or omits to take in good faith in accordance with a direction received by CFC from the Trustee or the Certificateholders.

In addition to enforcing the Trustee's rights under the Private Note and the REA Guarantee held by a Trust, CFC is obligated to fulfill a number of administrative and notice functions under the Trust Agreement. For example, CFC is obligated to deliver a notice to each Cooperative and the Trustee for the Trust specifying the date any payment is due on the Private Note held by the Trust and the amount of such payment. In addition, CFC is responsible for notifying REA of any default in the payment of interest and principal on the Private Note held by the Trust.

CFC must notify REA of any conditions which might lead to a default or violation by the Cooperative under the Loan Agreement, the Loan Guarantee Agreement or a Private Note. CFC is also obligated to notify REA of any optional redemption of the Private Note held by a Trust and to calculate the amount payable on such Private Note, and the related Certificates, pursuant to any redemption or purchase of the Private Note.

CFC handles the billing or Private Loan payments from the Cooperative, but payments on the Private Note are made directly to the Trustee. CFC prepares for distribution by the Trustee to Certificateholders all regular semiannual reports concerning distributions on the Certificates and its fees, as well as tax information required by the Certificateholders. The applicant states that at least once a year, an independent public accountant audits the books and records of each Trust. Upon completion, copies of the auditor's reports are provided to the Trustee.

8. CFC is compensated out of payments on the Private Note in excess of the scheduled payments distributed to the Certificateholders. CFC estimates that its regular servicing fee will total not more than approximately 1/10 of 1% per annum of the principal amount of the Private Note. If REA consents, CFC receives from the Trust reimbursement for costs incurred by it in connection with the reoffering of the Certificates. However, the applicant states that such reimbursement does not reduce distributions to the Certificateholders.

CFC may not resign, but may be discharged by action of 51% of the Certificateholders or the Trustee following certain defaults or events of bankruptcy relating to CFC. The insolvency of either the Trustee of CFC will not affect the Certificateholders rights, because CFC will not hold any Trust assets and the assets held in a fiduciary capacity by the Trustee are not subject to claims of the Trustee's general creditors.

9. CFC states that it may resell the Certificates, either in private placements pursuant to section 4(2) of the Securities Act of 1933 (the Securities Act), or in underwritten public offerings registered under the Securities Act, or possibly in distributions exempt from registration because they will come to rest outside the United States. CFC expects that the Certificates will be marketed principally to financial institutions, such as the Plans. CFC states further that the Certificates issued by each Trust will receive the highest investment grade rating ("AAA" or "Aaa") from at least two nationally recognized statistical rating organizations not affiliated with CFC or the Trusts.

10. Each Certificate represents an undivided fractional interest in a Trust. The Certificates are issued in denominations of $1,000 or multiples thereof, and will not be divisible into Certificates with original principal amounts below that figure. The Certificates are transferable and are listed on a national securities exchange. Payments on the Certificates represent the pass-through of payments received by the Trustee on the Private Note held by the Trust. Interest on both the Private Note and the Certificates are payable semiannually and principal payments on both the Private Note and the Certificates are payable annually for the period during which the Private Note and the Certificates amortize.

The Certificates can be prepaid at any time the Private Note is prepaid. The Private Notes are prepayable at the Cooperative's option, generally after a no-call period, at premiums declining each year until such premiums equal zero. The applicant states that the payment of principal, interest and premium in the event a Cooperative elects to prepay the Private Note are not covered by the REA Guarantee. However, the Cooperative is required to accompany its notice of prepayment with a cash deposit equal to the amounts that are due on the Private Note at the time of prepayment, thus assuring that funds are available at that time.

The applicant states that with the exception of the prepayment referred to above, all payments on the Certificates have back-to-back Private Note obligations which are supported by the full faith and credit of the United States. If the Cooperative defaults in making its payments or in its other obligations to REA, REA has the option either to pay under the REA Guarantee principal and interest as they fall due on the Private Note or to proceed against the Cooperative and to assume the Cooperative's obligations under the Private Note. In addition, if the Cooperative could at that time make an optional prepayment of the Private Note, REA may prepay or purchase the Private Note at the same premium as would then be applicable to a prepayment by the Cooperative. The Trustee or CFC, as its agent, will enforce payments due on the Private Note and the REA Guarantee. However, a specified percentage of Certificateholders may direct the time, method and place of conducting any remedy available to the Trustee or CFC. The Trustee may not resign until the Trust is liquidated and the proceeds distributed to Certificateholders unless a successor Trustee has been designated and has accepted the trusteeship.

11. Scheduled distributions on the Certificates are made approximately 11 days following the corresponding payment on the Private Note. The application states that this period of time allows CFC to notify REA if there is a default by the Cooperative in making a payment on the Private Note and allows five business days for REA to make a payment under the guarantee.

As a consquence, if the Cooperative defaults, the full faith and credit guarantee payment will fall due before the scheduled payment on the Certificates. The applicant states that if a Cooperative elects to prepay the Private Loan, distributions on the Certificates will be made only after advance receipt of the amounts to be prepaid, thus permitting notice of the resulting distribution to be given to the Certificateholders.

The applicant states further that during these periods pending distribution, payments on the Private Note received by the Trust will be invested, at the direction of CFC, in (i) obligations issued by the United States (and supported by its full faith and credit), or (ii) repurchase agreements with respect to such obligations, over-collateralized on a basis that will not result in a reduction in the ratings of the Certificates. All such investments must mature before the next scheduled distribution date on the Certificates. The obligations collateralizing the repurchase agreements in question would be marked-to-market on a daily basis and kept in the possession of the Trustee. Assuming all amounts then due on the Private Notes have been paid in full, any yield on these investments will be returned to the Cooperative, or to REA to the extent of any unreimbursed payments on the REA Guarantee.

12. *Prohibited Transactions.* The Department's regulations defining "plan assets" (29 CFR 2510.3–101) provide that if a plan acquires an equity interest in an entity that is not an operating company, such as the Certificates in a Trust, the plan will be required to treat the underlying assets of the entity as assets of the plan, if the class of equity interests in question are not (i) held by 100 or more investors independent of the issuer and of each other, (ii) freely transferable and (iii) sold as a part of an offering pursuant to an effective registration statement under the Securities Act, and then timely registered under section 12(b) or 12(g) of the Securities Exchange Act of 1934. The application represents that although there are no restrictions imposed on the transfer of the Certificates and CFC will satisfy the registration requirements, CFC anticipates that one or more series of the Certificates will be held by fewer than 100 independent investors at the conclusion of the initial offering.

The applicant states that a Plan's assets will be deemed to include assets of a Trust if employee benefit plan investors in the aggregate acquire Certificates representing a greater than 25% interest in a Trust.[3] CFC represents that it is possible that more than 25% of the interests in one series of Certificates may be held by the Plans.

If the assets of a Trust are deemed to be "plan assets", the activities of CFC with respect to a Trust may be regarded as services being performed for the participating Plans, which would cause CFC to be a "service provider" and party in interest to the Plans investing in the Trust. Thus, CFC states that it is the possible existence of such "service provider" status which gives rise to the potential prohibited transactions for which an exemption is requested. However, CFC acts solely as an agent of the Trustee and does not have any authority or control, outside those duties specifically delineated in the Trust Agreement, which would make it a fiduciary of the assets of a Trust.

First, the applicant states that a Plan may acquire interests in more than one Trust. Since separate Trusts will be established with respect both to borrowings by different Cooperatives and with respect to borrowings of different maturities by the same Cooperative, it is possible that a Plan interested in the Certificates will acquire interests in multiple Trusts. In such event, the party in interest status assumed by CFC with respect to an investing Plan as a result of the Plan's first investment in an interest in a Trust might cause the acquisition by the Plan of an interest in a second Trust to violate the provisions of the Act. Such a transaction could occur if the Plan were to acquire a Certificate directly from CFC. However, the applicant states that some of the Certificates will be placed through a firm commitment underwriting.[4]

Second, in addition to the acquisition of Certificates, a Plan may acquire or already hold the CFC Debt (see Paragraph 1 above) which CFC issues to provide funding for its operations. CFC Debt consists of collateral trust bonds (CFC Bonds), commercial paper (CFC Paper), and medium term notes (CFC Notes). These debt securities are all high grade investments, according to two nationally recognized rating organizations, which are sold primarily to institutional investors. CFC Bonds are fixed rate unconvertible senior debt securities which have maturities ranging from five to thirty-five years. CFC Bonds are listed on the New York Stock Exchange and sold in firm commitment underwritten public offerings, registered under the Securities Act, to traditional buyers of corporate debt securities such as banks and insurance companies. CFC Paper is issued as senior promissory notes having maturities of up to nine months. CFC Paper is exempt from registration under the Securities Act and is sold through securities dealers mostly to banks and money-market funds. CFC Notes are unsecured senior unconvertible notes having maturities ranging from nine months to fifteen years. CFC Notes are registered under the Securities Act and are placed by securities dealers on a best-efforts basis with the usual buyers of this type of security, which are mostly banks and insurance companies. The applicant represents that all these debt securities are offered on the same terms and conditions to all investors, including the Plans. The applicant states that if a Plan were to acquire Certificates from CFC at any time during which the Plan held CFC Debt, and such acquisition of the Certificates resulted in CFC becoming a party in interest with respect to the Plan as a service provider to the Trust which issued the Certificates, then the holding by the Plan of such CFC Debt would become a prohibited extension of credit in violation of the Act. Likewise, if CFC were to become a party in interest with respect to a Plan as a service provider and if the Plan subsequently acquired CFC Debt, then such acquisition by the Plan of CFC Debt would become a prohibited extension of credit in violation of the Act.

CFC states that it will have no relationship to, or influence over the investment decisions made by, a Plan either to acquire CFC Debt or to acquire a Certificate under a Trust. The decisions of the Plans to participate in the Trusts, through the purchase of the Certificates, will be made by Plan fiduciaries independent of CFC and the Trustee.

Finally, CFC states that it is obligated to defend and indemnify the Trust and its Certificateholders against any and all costs, expenses, losses, damages, claims and liabilities, including reasonable fees and expenses of counsel and expenses of litigation, arising with respect to any action taken by CFC, except to the extent such charges may be attributable to the Trustee's negligence or bad faith. The applicant states that if CFC is considered to be a party in interest with respect to Plan Certificateholders, CFC's

[3] See DOL Reg. § 2510.3–101(f).

[4] The applicant represents where the Certificates are acquired by the Plans through an underwriting, the acquisition of the Certificates by the Plans may be covered by Part III of Prohibited Transaction Exemption (PTE) 75–1, 40 FR 50845, (October 31, 1975). However, this proposed exemption would provide exemptive relief for those additional prohibited transactions involving CFC not covered by PTE 75–1 that may arise as a result of the plan asset "look-though" rule and CFC's status as a service-provider to a Trust.

indemnification of the Certificateholders against certain potential taxes and expenses may be deemed to be a guarantee which results in a prohibited extension of credit between CFC and the Plan under the act.

13. Soyland Power Cooperative, Inc. (Soyland), has refinanced its FFB Loans under the Program by borrowing from CFC and issuing five Private Notes evidencing these borrowings to separate Trusts. CFC has acquired the Certificates representing the ownership interest in these Trusts (the Soyland Transaction) and has sold the Certificates to various institutional investors, including the Plans. The applicant requests that the proposed exemption be effective as of July 22, 1987, the date of the delivery of the Certificates to the Plans with respect to the Soyland Transaction. The applicant states that four other Cooperatives, Cajun Electric Power Cooperative, Inc., Deseret Generation & Transmission Co-Operative, Tex-La Electric Cooperative of Texas Inc., and Kansas Electric Power Cooperative, Inc., have planned to refinance their FFB Loans under the Program. However, CFC states that because the determination of eligibility under the Regulations rests solely with REA, CFC cannot determine which other borrowers will have prepayment applications approved. CFC anticipates that a substantial number of the Cooperatives may participate in the Program.

14. In summary, the applicant represents that the transactions satisfy the statutory criteria of section 408(a) of the Act because, among other things: (a) The decision of the Plans to purchase the Certificates was and will be made in all cases by a Plan fiduciary which is independent of CFC and the Trusteee; (b) the Certificates are priced at market rates and will in all cases receive the highest investment grade rating from two nationally recognized statisitcal rating organizations; (c) the payments of principal and interest on the Private Notes held by the Trusts issuing the Certificates are guaranteed by REA; and (d) the Certificates are sold to the Plans with full disclosure to the independent fiduciaries for the Plans of the fees and expenses to be recovered by CFC and the Trustee from the Trust, which in all cases come only out of payments made on the Private Notes by the Cooperatives.

For Further Information Contact: Mr. E.F. Williams of the Department, telephone (202) 523-8883. (This is not a toll-free number.)

Dalton Foundries, Inc. Employee Stock Ownership Plan (the Plan) Located in Fort Wayne, Indiana

[Application No. D-7757]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code shall not apply to the sale by the Plan of certain units in a limited investment partnership (the Partnership Units) to the Dalton Foundries, Inc. Pension Plan (the Pension Plan), a party in interest with respect to the Plan by reason of the Plan's ownership of more than 50 percent of Dalton Foundries, Inc. (Dalton), sponsor of the Pension Plan, provided that the price paid is the fair market value of the Partnership Units on the date of sale.

Summary of Facts and Representations

1. The Plan is an employee stock ownership plan sponsored by Dalton Foundries, Inc., manufacturers of foundry equipment doing business in Warsaw, Indiana. As of September 8, 1988, the Plan had 122 participants and $3,460,000 in assets.

2. In 1982 the Dalton Foundries, Inc. Profit Sharing Plan (the Profit Sharing Plan) purchased the Partnership Units, 63.441 units of Balcor Pension Investors II (Balcor II) at an aggregate cost of $60,000. Balcor II is a limited real estate investment partnership marketed by The Balcor Company (Balcor), a subsidiary of Shearson Lehman Hutton, Inc. At the time of the purchase of the Partnership Units the Profit Sharing Plan covered Dalton's salaried employees and the assets of the Profit Sharing Plan were allocated between an equity fund (the Equity Fund) and a money market fund, between which participants were given the right to exercise investment discretion. The Partnership Units then represented approximately 4.3% of the $1.4 million in the Equity Fund. After formation of the Plan in 1985, Profit Sharing Plan participants were given the opportunity to direct that their accounts be invested in whole or in part in employer stock, and the Profit Sharing Plan was merged into the Plan. All Profit Sharing Accounts, however, were segregated within the Plan trust. As of December 31, 1987, the Profit Sharing Equity Fund accounts totalled approximately $161,000. The Partnership Units, valued as of September 1, 1988 at $876.04 per unit, thus represent approximately 34.5% of the Equity Fund value.

3. The Partnership Units now represent more than a third of the value of assets in the Plan's Equity Fund. However, no satisfactory secondary market currently exists for the Partnership Units. Although Balcor maintains a repurchase plan for Balcor II investment units, the waiting period for repurchase is currently approximately four years, a waiting period which fluctuates on the basis of cash received each quarter.

Early in 1988 the waiting period was nine years. As a result, a severe liquidity problem exists with respect to the Profit Sharing Equity Fund accounts which limits the right of Plan participants to exercise their investment discretion between the Profit Sharing Equity Fund and money market accounts and the ability of the Plan to make distributions from the Profit Sharing Equity Fund to retiring or otherwise terminating Plan participants.

4. Accordingly, the Plan proposes to sell the Partnership Units to the Pension Plan for an amount in cash equal to the unit value of the Partnership Units as determined by Balcor. Balcor discounts the value of the Units by 10% due to lack of marketability and this amount represents the price at which Balcor will repurchase the Units from unitholders. On September 1, 1988, Sean O'Malley, of the Investor Services Department of Balcor, stated that the fair market value of the Partnership Units was $876.04 per interest.

5. On April 4, 1989, Radd L. Riebe, (Mr. Riebe) Vice President of Ameritrust Company N.A. of Cleveland, Ohio, acting as independent fiduciary for the Plan, stated that the proposed transaction was in the best interest of the Plan and its participants and beneficiaries. In reaching this conclusion, Mr. Riebe took into consideration the Plan's overall investment portfolio, especially its liquidity requirements and the need of the Plan to diversify its assets.

6. On April 6, 1989, Barry F. Ebert (Mr. Ebert), President of Heartland Capital Management, Inc., a registered investment advisor, acting as independent fiduciary for the Pension Plan, stated that the proposed transaction was in the best interest of the Pension Plan and its participants and beneficiaries. In reaching this conclusion, Mr. Ebert took into consideration the Pension Plan's

average annual rate of investment return, the diversification of its assets, and its liquidity needs. The Partnership Units will represent approximately 3.5% of the assets of the Pension Plan.

7. In summary, the applicant represents that the proposed transaction will satisfy the statutory criteria of section 408(a) of the Act because: (a) The sale represents a one-time transaction for cash, which can be easily verified; (b) the transaction will result in greater liquidity of the Plan's assets, enabling the Plan to make timely distributions; (c) the Plan will receive and the Pension Plan will pay the fair market value for the Partnership Units as determined by Balcor; and (d) Ameritrust Company, N.A., serving as independent fiduciary for the Plan, and Heartland Capital Management, Inc., serving as independent fiduciary for the Pension Plan, have determined that the transaction is in the interest of the Plan and its participants and beneficiaries and of the Pension Plan and its participants and beneficiaries.

For Further Information Contact: Joseph L. Roberts III of the Department, telephone (202)523-8881 (This is not a toll-free number.)

Pension Plan for Employees of Merrill Lynch & Co., Inc. and Affiliates (the Plan) Located in New York, New York

(Application No. D-7859)

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to: (1) The proposed cash sale by the Plan of certain parcels of improved real property (the Properties) and the transfer of all existing leases on the Properties, to Merrill Lynch & Co., Inc. (the Employer), the sponsor of the Plan, provided that the price paid for each of the Properties is the greater of either (i) the price originally paid for the particular Property by the Plan, plus the cost of all capital improvements made to the Property since the time of its acquisition by the Plan (the Book Value), or (ii) the fair market value of the Property as of the date of sale; and (2) the proposed cash sale by the Plan of a second mortgage note (the Note), which is secured by another parcel of improved real property unrelated to the Properties, to the Employer, provided that the price paid for the Note is the greater of either (i) the outstanding principal balance on the Note, plus any accrued but unpaid interest (the Note's Book Value), or (ii) the fair market value of the Note on the date of sale.

Summary of Facts and Representations

1. The Plan is a defined benefit plan which, as of December 31, 1988, had total assets of approximately $1 billion. The Plan covers approximately 32,542 active participants. In addition, the Plan covers 5,317 former participants, retirees and beneficiaries who are now receiving or who are entitled to receive benefits in the future. The trustees of the Plan are Courtney F. Jones (Mr. Jones), D. Bruce Brunson (Mr. Brunson), Robert J. Farrell (Mr. Farrell), Jack W. Lowery (Mr. Lowery), Arthur Zeikel (Mr. Zeikel), and Mary A. Wrenn (together, the Trustees). The Trustees are all officers of the Employer or its subsidiaries.

2. The Employer is a holding company incorporated in Delaware with its principal offices located at North Tower, World Financial Center, New York, New York. The Employer provides, through its subsidiaries, various investment, financial, real estate, insurance and related services. The Employer's principal subsidiary, Merrill Lynch, Pierce, Fenner & Smith, Inc., is one of the largest securities firms in the world.

3. The Plan provides for the appointment by the Board of Directors of the Employer of an investment committee for the Plan (the Committee) consisting of not less than three nor more than nine members. Members of the Committee may, but need not, be employees of the Employer or its subsidaries. At the present time, there are five employees of the Employer or its subsidiaries that are serving as members of the Committee. These five Committee members are Mr. Jones, Mr. Brunson, Mr. Farrell, Mr. Lowery, and Mr. Zeikel.

The Committee has the exclusive power to establish and monitor the policies and guidelines for the investment of the Plan's assets. The Committee is also authorized to direct the purchase or sale of specific investments of the Plan, except to the extent that an investment manager has been appointed for any of the Plan's assets.

4. The Employer has decided to terminate the Plan effective December 31, 1988. In connection with the Plan's termination, the Committee intends to liquidate all of the Plan's assets, including the Properties and the Note. The assets of the Plan, including the proceeds from the sale of the Properties and the Note, will be used to provide the participants and beneficiaries of the Plan with annuities in an amount equal to their Plan benefits as of December 31, 1988. The Employer anticipates that, following the satisfaction of Plan liabilities, there will be residual assets held by the Plan which will be transferred to an employee stock ownership plan sponsored by the Employer (the ESOP). The applicant states that the amount transferred to the ESOP will consist solely of cash or cash equivalents and will be used to purchase stock of the Employer.

5. The Properties are described as follows:

(1) A single six-story office building with approximately 82,800 square feet located at 523 North Belt, Houston, Texas (the Houston Property); (2) a single one-story warehouse containing 47,791 square feet located at 1383 Vapor Trail Road, Colorado Springs, Colorado (the Colorado Springs Property); (3) a business park consisting of four office and warehouse buildings containing approximately 86,544 square feet located at 1977 O'Toole Avenue, San Jose, California (the San Jose Properties); and (4) three single-story industrial warehouse buildings, known as Centreport 7, Valwood Park 1, and Valwood Park 4, containing a total of approximately 215,598 square feet, which are located, respectively, at 4501 Cambridge Road in Fort Worth, Texas, 13800 Hutton Drive in Dallas, Texas, and 13755 Benchmark Drive in Dallas, Texas (together, the Dallas/Ft. Worth Properties).

The Note is a nonrecourse second mortgage interest in a five-story, 104,000 square foot office building, located at 500 Sylvan Avenue, Bridgeport, Connecticut (the Bridgeport Property). The Bridgeport Property is owned by the Sylvan Executive Limited Partnership (Sylvan), an unrelated party.

6. The Plan purchased the Houston Property in December, 1980, from Messrs. Frank E. Allison and R.E. Walker, Jr., both of whom are unrelated parties, for $4,875,000. The Plan has incurred capital expenditures of $385,874 with respect to the Houston Property, making the current Book Value of the Property $5,260,874.

The Houston Property was appraised by Thomas R. Kirby, M.A.I. (Mr. Kirby), of Murphy, Kirby & Associates, an independent, qualified real estate appraiser in Houston, Texas. Mr. Kirby states that the fair market value of the Houston Property, expressed in terms of the "leased fee estate" created by

existing and projected multiple tenant leases, was $1,200,000, as of September 15, 1988. Mr. Kirby notes that a major tenant of the Houston Property vacated the premises in 1986 and that the property was approximately 85% vacant, as of the date of the appraisal. Mr. Kirby also notes that the Houston area real estate market is over-developed and extremely competitive.

The applicant represents that the value of the "leased fee estate" in the Houston Property was used to determine fair market value because the Houston Property is being sold subject to existing leases to parties unrelated to the Plan or the Employer. By letter dated February 3, 1989, Mr. Kirby states that in the real estate appraisal profession it is common practice, when a property is encumbered by either a single tenant lease or multiple tenant leases, to value the "leased fee estate" rather than the "fee simple estate." Mr. Kirby states further that the term "leased fee estate" is synonymous with the use of the term "fee simple encumbered by existing leases." Mr. Kirby notes that a "leased fee estate" valuation takes into consideration the future rental income from the current tenants, as well as the reversion of the property (unencumbered by those leases) at the expiration of the leases.

7. The Plan purchased the Colorado Springs Property on June 26, 1981, from Mr. James Barry Craddock, an unrelated party, for $1,614,143. The Plan has incurred capital expenditures of $61,562 with respect to the Colorado Springs Property, making the current Book Value of the property $1,675,705.

The Colorado Springs Property was appraised by John D. Freeman, M.A.I. (Mr. Freeman), an independent, qualified real estate appraiser in Colorado Springs, Colorado, as having a fair market value of $1,410,000, as of September 16, 1988. Mr. Freeman states that the only tenant in the Colorado Springs Property is the Schlage Lock Company, which will be vacating the premises in June 1989. Mr. Freeman states further that his valuation of the Colorado Springs Property has emphasized the income approach and has taken into consideration the present value of a future rental income stream, based on market rents for comparable properties in the area. Mr. Freeman notes that the current market for industrial warehouse space in Colorado Springs is over-developed and highly competitive.

8. The Plan purchased the San Jose Properties on September 16, 1983, from Public Storage, Inc., an unrelated party, for $5,790,902. The Plan has incurred capital expenditures of $258,659 with respect to the San Jose Properties, making the current Book Value of such properties $6,049,561.

The San Jose Properties were appraised by William A. Niethammer, M.A.I. (Mr. Niethammer), of the Real Estate Research Corporation, an independent, qualified real estate appraiser in San Francisco, California, as having a fair market value of $5,000,000, as of September 23, 1988. Mr. Niethammer notes that the commercial real estate market in San Jose is over-developed and suffers from a high vacancy rate, although vacancy rates for similar properties have declined some in the past year. Mr. Niethammer states that his valuation of the San Jose Properties has correlated the market approach and the income capitalization approach in arriving at the current market value for such properties.

9. The Plan purchased the Dallas/Ft. Worth Properties on August 15, 1985, from Centre Development Company, an unrelated party, for a total of $11,190,185 (i.e. $5,727,825 for Centreport 7, $2,567,825 for Valwood Park 1, and $2,894,535 for Valwood Park 4). The Plan has incurred total capital expenditures of $138,609 with respect to the Dallas/Ft. Worth Properties (i.e. $108,441 for Centreport 7, $15,084 for Valwood Park 1, and $15,084 for Valwood Park 4), making the current aggregate Book Value of such properties $11,328,794.

The Dallas/Ft. Worth Properties were appraised by Ronald W. Potts, M.A.I. (Mr. Potts), of Cushman & Wakefield Appraisal Division, an independent, qualified real estate appraiser in Dallas, Texas. Mr. Potts states that the aggregate fair market value of the Dallas/Ft. Worth Properties, expressed in terms of the "lease fee interest" in the subject properties, was $8,770,000, as of November 1, 1988 (i.e. $4,900,000 for Centreport 7, $1,770,000 for Valwood Park 1, and $2,100,000 for Valwood Park 4). Mr. Potts notes that several major tenants in the Dallas/Ft. Worth Properties have leases which are due to expire soon and that other tenants are seeking to sublet their space. Mr. Potts also notes that the Dallas/Ft. Worth industrial real estate market is over-developed and very competitive.

The applicant represents that the value of the "leased fee interest" in the Dallas/Ft. Worth Properties was used to determine fair market value because, as with the Houston Property, those Properties are being sold subject to the existing leases, all of which are with unrelated parties. By letter dated January 31, 1989, Mr. Potts states that a valuation of the "leased fee interest" or "leased fee estate" for the Dallas/Ft. Worth Properties is the relevant valuation for such Properties. Mr. Potts states further that a "leased fee interest" valuation takes into consideration the market value of existing leases on the subject property, the probabilities of such leases being renewed or cancelled at their termination, and any residual fee simple interest value in the property when arriving at fair market value.

10. The Plan originated the Note in July 1982. The Note is a 30-year note, with a face value of $3,200,000, which matures in 2012. The annual interest on the Note is 10% for the initial fifteen years and 12% for the remainder of the term. Amortization of the principal amount of the Note begins in the sixteenth year. Prepayment of the Note by Sylvan, the borrower, is prohibited until the sixteenth year. The Note allows the Plan an option to convert its debt interest in the Bridgeport Property, the underlying property which secures the Note, into an equity interest on six months prior written notice between the tenth and fifteenth year of the Note. The Bridgeport Property has a first mortgage interest held by the Aetna Life Insurance Company, an unrelated party, in the amount of $5,500,000.

The Note was appraised by Mark B. Victor, M.A.I. (Mr. Victor), of Cushman & Wakefield of Connecticut, Inc. (the Appraiser), an independent, qualified appraiser in Stamford, Connecticut, as having a fair market value of $3,200,000, as of September 20, 1988. Mr. Victor states that his valuation of the Note was based on the terms and conditions of the Note, the Note's lien positon with respect to the other encumbrances, and the security for the Note. Mr. Victor notes that the Bridgeport Property was appraised by the Appraiser as having a fair market value of $8,700,000, as of September 20, 1988.

11. The applicant represents that extensive efforts have been made to sell the Properties and the Note to unrelated parties. However, these efforts have been unsuccessful. The applicant states that it may be difficult to sell the Properties without incurring a significant economic loss because of the depressed state of the commercial and industrial real estate markets in the areas where the Properties are located. The Committee and the Employer would like to avoid the potential adverse economic impact upon the Plan of selling the Properties on the open market. Therefore, the Employer proposes to purchase the Properties from the Plan for cash at the greater of either (i) the Book Value for the particular Property, or (ii) the fair market value of the particular property as determined by qualified, independent

appraisers. The Employer is also willing to purchase the Note from the Plan for cash at the greater of either (i) the Note's Book Value, or (ii) the fair market value of the Note, as determined by a qualifed, independent appraiser. The applicant states that the appraisals for each of the Properties and for the Note will be updated as of the date of sale.

12. The applicant represents that the proposed sale of the Properties and the Note to the Employer would be in the best interests of the Plan and its participants and beneficiaries. The applicant states that the proposed transactions would facilitate the timely liquidation of the Plan's assets and will ensure that the Plan at least recoups its investment in the Properties and the Note. The Plan will not pay any commissions or other expenses in connection with the proposed transactions.

The applicant states that the Properties are not now and have not been either leased to or used by the Employer, its subsidiaries, or any other party in interest with respect to the Plan. In addition, neither the Employer nor its subsidiaries own any property which is adjacent to the properties.

13. In summary, the applicant represents that the proposed transaction will satisfy the statutory criteria of section 408(a) of the act because: (a) The sale of the Properties and the Note will be one-time transactions for cash; (b) the plan will receive a price for the Properties which will be the greater of either the Book Value for the particular Property or the fair market value for the particular Property, as established by independent, qualified appraisers; (c) the Plan will receive a price for the Note which will be the greater of either the Note's Book Value or the fair market value of the Note, as established by an independent, qualified appraiser; (d) the Plan will not pay any commissions or other expenses with respect to the proposed sale of the Properties and the Note; and (e) the transactions will facilitate a prompt termination of the Plan and will allow the Plan's assets to be distributed to the participants and beneficiaries.

Tax Consequences of Transaction

The Department of the Treasury has determined that if a transaction between a qualified employee benefit plan and its sponsoring employer (or affiliate thereof) results in the plan either paying less than or receiving more than fair market value, such excess may be considered to be a contribution by the sponsoring employer to the plan, and therefore must be examined under the applicable provisions of the Internal Revenue Code, including sections 401(a)(4), 404 and 415.

For Further Information Contact: Mr. E.F. Williams of the Department, telephone (202) 523-8883. (This is not a toll-free number.)

Complete General Construction Company Profit Sharing Plan (the Plan) Located in Columbus, Ohio

[Application No. D-7868]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the applicjation of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the proposed sale for cash by the Plan of certain real property (the Real Property) to Complete General Construction Company (the Employer), a party in interest with respect to the Plan, provided that the price paid be no less than the fair market value of the Real Property as of the date of sale, as determined by an independent and qualified appraiser.

Summary of Facts and Representations

1. The Plan is a profit sharing plan sponsored by the Employer, a construction company doing business in Columbus, Ohio. Lino A. Guzzo, President of the Employer, serves as trustee of the Plan. As of December 7, 1988, the Plan had 53 participants. As of March 31, 1988, the aggregate value of Plan assets was $1,777,097.12.

2. On June 30, 1961, the Employer purchased 101.33 acres of unimproved land (the Employer Property) in Franklin and Delaware Counties, Ohio. On August 12, 1968, the Plan purchased the Real property, approximately 40 acres of undeveloped land in Liberty Township, Delaware County, Ohio, from an unrelated third party for $52,000 in cash as an investment in anticipation of future appreciation. The Real Property, which includes approximately 20 acres of lake area, is contiguous to the Employer Property, and has no access to any road.

3. On January 17, 1989, James L. Murr, MAI (Mr. Murr), an independent and qualified real estate appraiser associated with James Petropoulos and Company, a real estate and appraisal firm in Columbus, Ohio, stated that the fair market value of the Real Property was $192,000, based on the highest and best use of the Real Property as to be developed in conjunction with the Employer Property.

4. The value of the Real Property is approximately 11% of Plan assets. The applicant represents that the Real Property, as undeveloped land, produces no income and has not been used by any party in interest with respect to the Plan.

5. Accordingly, the Plan proposes to sell the Real Property to the Employer for cash for the fair market value of the Real Property as of the date of sale as determined by an independent and qualified appraiser. The Plan desires to sell the Real Property in order to improve the liquidity of its assets and to realize a higher investment return. The applicant represents that the Employer will pay any and all costs relating to the sale of the Real Property.

6. In summary, the applicant represents that the proposed transaction will satisfy the criteria of section 408(a) of the Act because, among other things: (a) The sale represents a one-time transaction for cash, which can be easily verified; (b) the Plan will receive the fair market value of the Real Property as of the date of sale as determined by an independent and qualified appraiser; (c) the Plan will be able to divest itself of an illiquid asset which is producing no income, and will be able to diversify its assets in order to realize a higher return for the assets represented by the Real Property; (d) the Plan will not pay any commissions, taxes, or fees in connection with the sale of the Real Property; and (e) the trustee of the Plan has determined that the proposed transaction would be in the best interest and protective of the Plan and its participants and beneficiaries.

For Further Information Contact: Joseph L. Roberts III of the Department, telephone (202) 523-8881 (This is not a toll-free number.)

Advest Group, Inc. Incentive Savings Plan (the Plan) Located in Hartford, CT

[Application No. D-7947]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code shall not apply to the proposed purchase or sale

of zero-coupon obligations based on Treasury securities (STRIPS) [5] between individually-directed accounts in the Plan and Advest, Inc. (AI), the trustee, Plan administrator and sponsor of the Plan, provided the following conditions are met: (a) The purchase or sale of the STRIPS will be on terms at least as favorable as those offered in the ordinary course of business to unrelated customers of AI; (b) purchases or sales will be made only upon the written direction of a Plan participant; and (c) purchases or sales directed by a participant will be only for the participant's individual account.

Summary of Facts and Representations

1. The Plan is a defined contribution plan covering employees of the Advest Group, Inc. (AGI), a holding company located in Hartford, Connecticut, and its seven subsidiaries. As of December 31, 1987, the Plan had net assets of $16,791,251. As of February 16, 1989, the Plan had approximately 1,800 participants. AI, a wholly-owned subsidiary of AGI, is a broker-dealer which is also located in Hartford, Connecticut. AI is the Plan trustee, sponsor and administrator.

2. The Plan currently allows each participant to direct the investment and reinvestment of assets credited to such participant's individual account in one or a combination of nine different mutual funds, none of which are related to AI. Plan participants are also permitted to invest the assets in their individual accounts in money market accounts maintained for the participants at Advest Bank (Advest Bank), a Connecticut-chartered capital stock savings bank and a subsidiary of AGI.[6] A participant may direct investment in funds currently in his or her account up to four times in any plan year by giving written notice to AI. Assets for which there is no effective participant direction are invested in Advest Bank money market accounts.[7] Once given, an investment direction is deemed to be continuing until it is explicitly changed in writing by the participant.

3. AI proposes to amend the Plan to allow all participants the additional option of investing in STRIPS. STRIPS represent direct ownership of future principal and interest payments on United States Treasury Bonds or Notes. STRIPS pay no semiannual interest, sell at a substantial discount and pay the full face value upon maturity. The total return, if held to maturity, is fixed at the time of purchase and equals the difference between the price an investor pays and the face value at maturity. The applicant represents that investment in STRIPS is particularly attractive to participants who wish to lock in a fixed rate of interest for a given period of time.

4. The applicant represents the STRIPS are marketed in the following manner. A primary government bond dealer purchases securities from the United States Government, and then, breaks the Treasury securities into the principal and interest component obligations of the underlying securities, which are traded separately.[8] Broker-dealers, such as AI, purchase components by a transfer in book-entry form to the bank of the purchaser. At all times, regardless of who owns the STRIP, such investment is maintained as a book-entry account at a bank which participates in the book-entry system operated by the Federal Reserve Banks. Each particular Government security, representing an obligation to pay the owner of the STRIPS, will be identified by a Committee on Uniform Securities Identification Procedures (CUSIP) number assigned to the obligation. The payment is fully-backed by and is a direct obligation of the United States Government. Whether the payment is an interest payment or a principal payment is determinable from the CUSIP number assigned to that issue.

5. In marketing STRIPS, AI acts as a principal rather than as an agent. STRIPS are offered to the public in face amounts of $1,000 and integral multiples thereof at discounts from their face amount. AI sells STRIPS to its regular customers in the ordinary course of its business at a selling price which is $3 to $22 per $1,000 of face value above the price established and posted by AI for each particular STRIP on the trade date. This mark-up will not be charged to Plan participants for the subject transactions.

6. AI represents that it establishes the selling price for STRIPS by examining the bid and asked prices for maturity dates of STRIPS established by primary dealers, secondary dealers, brokers and electronic screens such as Telerate and Bloomberg. During the course of a business day, AI receives quotations from three or more different dealers and brokers in these categories regarding their bid and asked prices for given maturity dates. AI, in turn, prices the STRIPS to its customers based on the round lot market (i.e., sales for a given maturity date of STRIPS in the face amount of $1 million and multiple thereof) rather than the odd lot market, resulting in a higher yield-to-maturity for the customers. AI represents that it is not the only broker-dealer selling STRIPS and, therefore, the prices it establishes must be competitive with the marketplace. AI establishes its price at least once daily, at 4 p.m. on the business day preceding the actual trade. On a day when the market is particularly volatile, AI may change its price more frequently. The posted price applies to all sales to all customers.

7. The applicant seeks an exemption to allow any Plan participant to direct AI to invest all or a portion of the balance in such participant's individually-directed account in STRIPS currently available to AI's regular customers in the normal course of business. The only commitment of Plan funds will be by an individual participant for his or her individual account. Neither AGI, nor AI nor any subsidiary will recommend the purchase of STRIPS nor will any employee of AI, AGI or any other subsidiary, do anything which will serve as a primary basis for investment decisions with respect to any Plan assets by an individual participant. If a participant selects a particular STRIP that is not in AI's inventory, AI will obtain such STRIP, if available, for resale to the participant.

8. AI will sell STRIPS to participants at the base price established by AI at 4 p.m. on the business day before the STRIPS are purchased by the participant or the cost price of a subsequent purchase.[9] The use of cost prices will occur only in rare instances when the volume of orders greatly exceeds the amount of inventory. If the cost price is lower than the base price, that lower price will apply to all purchases. In addition, AI will not charge Plan

[5] The STRIPS program was announced by the Department of the Treasury on February 15, 1985, to facilitate Separate Trading of Registered Interest and Principal Securities.

[6] The application represents that such investments are in accordance with the statutory criteria for exemptive relief under section 408(b)(4) of the Act which pertains to the investment of all or part of a plan's assets in deposits of a bank fiduciary. The Department expresses no opinion herein on whether participant investments in money market accounts of Advest Bank satisfy the terms and conditions of section 408(b)(4) of the Act.

[7] In this proposed exemption, the Department is not providing relief for the receipt of fees with respect to the money market accounts. In this regard, see section 408(b)(2) of the Act.

[8] For example, if an investor wishes to purchase STRIPS which will pay $25,000 on February 15, 1996, the underlying Treasury obligations may be in twenty-five $1,000 interest payments due on that date or five $5,000 principal payments due on that date or a $25,000 principal payment due on that date, or any combination of interest and principal payments due on that date totaling $25,000.

[9] The cost price is defined as the actual purchase price at which AI acquires a STRIP.

participants any of the normal mark-ups or commissions that it would charge to regular customers in the ordinary course of business.

9. AI will provide written notice to each Plan participant explaining that such participant will be able to direct the purchase of STRIPS at any time and up to the level of AI's then present inventory of STRIPS. A participant's investment direction must be in writing in a form acceptable to AI. Such direction must specify the particular STRIP (including maturity date(s)), to be acquired, the quantity of each STRIP to be acquired and the security of securities to be sold from the participant's other investments to fund the purchase of the STRIP, if applicable. A participant may place a conditional order directing the purchase of STRIPS only if it could be obtained at below a maximum price or above a minimum yield. A participant will be able to rescind any order prior to the trade date by notifying AI. A participant may modify an order should there be insufficient funds to pay for the STRIPS as of the trade date. The minimum investment in STRIPS shall be $1,000.

10. AI will execute the orders on a first come, first serve basis, in the same manner as AI processes its orders for its regular customers in the normal course of business. The actual purchase will be made as soon as practicable after receipt of a participant's investment direction.

11. The applicant represents that the proposed exemptions is in the Plan's best interest because: (a) The proposal merely makes available an additional investment option to Plan participants; (b) the participant may direct purchases only for his or her individual account; (c) the purchase prices of STRIPS will be set by external market conditions which are not within the control of AI; and (d) the amount paid by the participant for a particular STRIP will be below the price available to a regular customer of AI because there will be no mark-up or commission charged, whereas the normal market price available to a regular customer of AI is $3 to $22 per $1,000 of face value above the price established and posted by AI for each particular STRIP on the trade date.

12. The applicant also requests an exemption to permit Plan participants to have the opportunity to sell any or all of the STRIPS in their account to AI at any time. If the STRIPS are sold through AI in a principal transaction, the sale prices for the STRIPS will be the sale prices that would be available for the same STRIPS sold by AI in the ordinary course of business to its regular customers on the date of sale. Plan participants will not be charged any mark-up from the base sale price or commission. The trade will otherwise be executed in the same manner as a sale in the ordinary course of business by a regular customer of AI. Any decision to sell STRIPS prior to distribution from the Plan will be voluntarily made by a participant. In making the sale option available, neither AGI, nor AI nor any subsidiary will recommend that any participant sell any STRIPS.

13. In summary, the applicant represents that the proposed transactions meet the criteria of section 408(a) of the Act because: (a) The purchase and sale of the STRIPS will be on terms at least as favorable as those offered in the ordinary course of business to unrelated customers of AI; (b) no commissions or mark-ups will be charged to Plan participants on either the purchase or the sale of the STRIPS; (c) purchases and sales may be made by Plan participants at any time and only on the written direction of such Plan participant; and (d) the purchases and sales of the STRIPS directed by a participant will only be for that participant's individual account.

For Further Information Contact: Ms. Jan D. Broady of the Department, telephone (202) 523-8881 (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 9th day of June, 1989.

Robert J. Doyle,

Director of Regulations and Interpretations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 89-14144 Filed 6-13-89; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 89-48; Exemption Application No. D-7673 et al.]

Grant of Individual Exemptions; Local 705 International Brotherhood of Teamsters Pension Fund, et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Grant of Individual Exemption.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, DC. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a

public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of pendency were issued and the exemptions are being granted solely by the Department because, effective December 31, 1987, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1987) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

Local 705 International Brotherhood of Teamsters Pension Fund (the Plan) Located in Chicago, Illinois

[Prohibited Transaction Exemption 89–48; Exemption Application No. D–7673]

Exemption

The restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the purchase by the Plan of certain real property located at 300 South Ashland Avenue in Chicago, Illionis from the Local 705 Building Corporation, a party in interest with respect to the Plan; provided that all terms of such transaction are at least as favorable to the Plan as those which the Plan could obtain in an arm's length transaction with an unrelated party.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on April 20, 1989 at 54 FR 16016.

For Further Information Contact: Ronald Willett of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

John Deere Optional Life Insurance Plan (the Plan) Located In Moline, Illinois

[Prohibited TransactionExemption 89–49; Exemption Application No. D–7680]

Exemption

The restrictions of section 406 (a) and (b) of the Act shall not apply to the reinsurance of risks and the receipt of premiums therefrom by John Deere Life Insurance Company (JDLIC) from the insurance contracts sold by Connecticut General Life Insurance Company, or another life insurance company unrelated to Deere & Compnay (Deere), to provide life insurance benefits to participants of the Plan, provided the following conditions are met:

(a) JDLIC—

(1) Is a party in interest with respect to the Plan by reasons of a stock or partnership affiliation with Deere that is described in section 3(14) (E) or (G) of the Act.

(2) Is licensed to sell insurance or conduct reinsurance operations in at least one of the United States or in the District of Columbia,

(3) Has obtained a Certificate of Authority from the Department of Insurance of its domiciliary state, Illinois, which has neither been revoked nor suspended, and

(4)(A) Has undergone an examination by an independent certified public accountant for its last completed taxable year immediately prior to the taxable year of the reinsurance transaction; or

(B) Has undergone a financial examination (within the meaning of the law of its domiciliary state, Illinois) by the Superintendent of Insurance for the State of Illinois within 5 years prior to the end of the year preceding the year in which the reinsurance transaction occurred.

(b) The Plan pays no more than adequate consideration for the insurance contracts;

(c) No commissions are paid with respect to the direct sale of such contracts, or the reinsurance thereof; and

(d) For each taxable year of JDLIC, the gross premiums and annuity considerations received in that taxable year by JDLIC for life and health insurance or annuity contracts for all employee benefit plans (and their employers) with respect to which JDLIC is a party in interest by reason of a relationship to such employer described in section 3(14) (E) or (G) of the Act does not exceed 50 percent of the gross premiums and annuity considerations received for all lines of insurance (whether direct insurance or reinsurance) in that taxable year by JDLIC. For purposes of this condition (d):

(1) The term "gross premiums and annuity considerations received" means as to the numerator the total of premiums and annuity considerations received, both for the subject reinsurance transactions as well as for any direct sale or other reinsurance of life insurance, health insurance or annuity contracts to such plans (and their employers) by JDLIC. This total is to be reduced (in both the numerator and denominator of the fraction) by experience refunds paid or credited in that taxable year by JDLIC.

(2) All premium and annuity considerations written by JDLIC for plans which it alone maintains are to be excluded from both the numerator and denominator of the fraction.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on April 20, 1989 at 54 FR 16018.

EFFECTIVE DATE: This exemption is effective January 1, 1983.

For Further Information Contact: Gary H. Lefkowitz of the Department, telephone (202) 523–8881 (This is not a toll-free number.)

Pillsbury, Madison & Sutro Keogh Plan (the Keogh Plan) Located in San Francisco, CA

[Prohibited Transaction Exemption 89–50; Exemption Application No. D–7741]

Exemption

The restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the proposed loan of up to $10 million by the Keogh Plan to Pillsbury, Madison & Sutro, provided that the terms of the transaction are not less favorable to the Keogh Plan than those obtainable in an arm's-length transaction with an unrelated party.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on April 20, 1989 at 54 FR 16022.

For Further Information Contact: Mrs. B.S. Scott of the Department, telephone (202) 523–8194 (This is not a toll-free number.)

Auto-Chlor System of Washington, Inc. Profit Sharing Retirement Plan (the Plan) Located in San Jose, California

[Prohibited Transaction Exemption 89-51; Exemption Application No. D-7777]

Exemption

The restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the sale for cash by the Plan of certain real property (the Real Property) to Jerry L. Ivy, a party in interest with respect to the Plan, provided that the price paid be no less than the fair market value of the Real Property on the date of sale.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on January 19, 1989 at 54 FR 2244.

For Further Information Contact: Joseph L. Roberts III of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

Merrill, Lynch, Pierce, Fenner & Smith Inc. Prototype Individual Self-Employment Retirement Plan (the Plan) Located in Greensboro, North Carolina

[Prohibited Transaction Exemption 89-52; Exemption Application No. D-7899]

Exemption

The sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the cash sale to the Plan of 125 shares of stock (the Shares) in Precision Fabrics Group Inc. by Charles H. Flynt, Jr., the sole participant in the Plan; provided that the sale price for the Shares is no greater than the fair market value of the Shares on the date of the sale.[1]

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on April 26, 1989 at 54 FR 18047.

For Further Information Contact: Angelena C. Le Blanc of the Department, telephone (202) 523-8883. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 9th day of June, 1989.

Robert J. Doyle,

Director of Regulations and Interpretations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 89-14145 Filed 6-13-89; 8:45 am]

BILLING CODE 4510-29-M

[1] Because Mr. Flynt is the sole participant in the Plans there is no jurisdiction under Title I of the Employee Retirement Income Security Act of 1974 (the Act) pursuant to 29 CFR 2510.3-3(b). However, there is jurisdiction under Title II of the Act pursuant to 4975 of the Code.

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 May 18, 1989 through June 2, 1989. The last biweekly notice was published on May 31, 1989 (54 FR 23306).

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 July 14, 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.

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: April 28, 1989.

Description of amendment request: The proposed amendments would delete the organization charts from Technical Specifications (TS), incorporate organizational changes to Section 6.0, Administrative Controls, and update TS Section 6.5.4.9 to reflect current 10 CFR 50.72 and 10 CFR 50.73 reporting requirements.

Basis for proposed no significant hazard consideration determination: The Commission has provided standards for determining whether a no significant hazard 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 the Brunswick Steam Electric Plant Technical Specifications and has determined that the requested amendment does not involve a significant hazards consideration for the following reasons:

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, updating of individual titles, and removal of two Plant Nuclear Safety Committee (PNSC) members from the Technical Specifications does not affect plant operation. As in the past, the NRC will continue to be informed of organizational changes through other required controls. The Code of Federal Regulations, Title 10, Part 50.34(b)(6)(i) requires that the organizational structure be included in the Final Safety Analysis Report (FSAR). Chapter 13 of the FSAR provides a description of the organization and detailed organization charts. As required by 10CFR5071(e), the company submits annual updates to the FSAR. Appendix B to 10CFR50 and 10 CFR 50.54(a)(3) govern changes to the organization described in the Quality Assurance Program. Some of these organizational changes require prior NRC approval. Also, it is CP&L's practice to inform the NRC of organizational changes affecting the nuclear facilities prior to implementation. The company intends to continue this practice for future organizational changes.

2. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated because the proposed changes are administrative in nature and involve no physical alterations of plant configuration or changes to setpoint or operating parameters.

3. The proposed amendment does not involve a significant reduction in the margin of safety because CP&L, through its Quality Assurance Programs, its commitment to maintain only qualified personnel in positions of responsibility, and other required controls assure that safety functions will be performed at a high level of competence.

Therefore, removal of the organization charts from the Technical Specifications will not affect the margin of safety.

Also, revising Section 6.0 to reflect current organization by revising individual titles, removing two Plant Nuclear Safety [Committee] (PNSC) members, and adjusting the quorum requirements will not affect the function of the organization or PNSC. The PNSC will continue to review, overview, evaluate, and maintain plant operational safety; therefore, the margin of safety will not be affected.

Updating the Technical Specifications to reflect current 10 CFR 50.72 and 10 CFR 50.73 reporting requirements which superseded the old reporting requirement of 24-hour written notification will not affect the margin of safety.

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. In addition, the NRC staff has observed from the proposed amendment that two members to be removed from the PNSC quorum are: Manager of Technical and Administrative Support and Assistant to Plant General Manager. These two positions had been dissolved due to a recent reorganization; however, the technical expertise on the PNSC quorum remains the same as before and, therefore, the effectiveness of the PNSC to evaluate changes to the plant operational safety issues will not be affected. Accordingly, the Commission proposes to determine that the requested amendment does not involve a significant hazards consideration.

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, 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: May 1, 1989.

Description of amendment request: The amendments would permit the licensee to use any Type A Containment Integrated Leak Rate Test methodology permitted by Appendix J of 10 CFR Part 50. Currently, the licensee can only use the "Mass Point" method, in accordance with the Technical Specifications. Appendix J permits the Total Time method, the Point-to-Point method, or the Mass Point method. The modified technical specification would simply reference Appendix J.

Basis for proposed no significant hazard consideration determination: The Commission has provided standards for determining whether a no significant hazard 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 for the following reasons:

1. The proposed amendment does not involve a significant increase in the probability of any accident previously evaluated. ANSI N45.4-1972 specified data analysis methodologies (Total Time or Point-to-Point), ANSI/ANS 56.8-1987 specified Mass Point data analysis methodology, and BN-TOP-1, Revision 1, specified reduced duration criteria, using the Total Time data analysis method. Each of these is an NRC Staff endorsed methodology for the calculation of primary containment integrated leakage rates during tests. These methods, or any other calculational method used to determine containment leakage rate during testing, are not considered to be an initiator of any accident previously evaluated.

The proposed amendment does not involve a significant increase in the consequences of any accident previously evaluated. As stated in 10CFR50, Appendix J, the purpose of the required tests is to assure that "...leakage through the primary reactor containment and systems and components penetrating primary containment shall not exceed allowable leakage rate values..." 10CFR50, Appendix J endorses the data analysis methodologies (Total Time and Point-to-Point) specified in ANSI N45.4-1972 as well as the Mass Point method specified in ANSI/ANS 56.8-1987. Thus, the proposed change meets the purpose of the rule and therefore, does not significantly increase the consequences of a previously evaluated accident.

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 only provides for the use of NRC Staff endorsed and approved methodologies for the calculation of containment leakage rates during tests. No possibility of a new or different kind of accident is created since the technique used to calculate leak rates during tests, in itself, it not considered to be an initiator of an accident, transient, incident, or event.

3. The proposed amendment does not involve a significant reduction in the margin of safety. The proposed amendment allows BSEP to use either BN-TOP-1, Revision 1, which requires use of the Total Time method when performing reduced duration tests, or the Mass Point method with a minimum test duration of 24 hours.

As stated in the NRC February 17, 1988 SER, "The Mass Point method has been recognized by the professional community as superior to the two other methods, Point-to-Point and Total Time, which are referenced in ANSI N45.4-1972 and endorsed by the current regulations." The preference is based on the fact that the Total Time method is

dependent on selection of the first point and it's [sic] relation to the remaining points, while the Mass Point method places equal emphasis on each point. Therefore, with the Mass Point method, an error in the first point is not as critical. This means that the upper 95% confidence interval of the leakage for the Total Time method may be higher than that of the Mass Point method. However, this does not decrease the margin of safety in that the acceptance criteria of an integrated leak rate test is based on leakage at the upper 95% confidence interval being less than the acceptance criteria. Therefore, any data scatter in the Total Time method is accounted for in the statistical analysis and must be within set limits for the test to pass. Such an error would typically yield test results which would pass using the Mass Point method, but would not pass using the Total Time method. Thus, to successfully perform a reduced duration BN-TOP-1, Revision 1, test, the test data must be more consistent than what is required for successful performance of a Mass Point test. For this reaason, CP&L has concluded that the propsed amendment does not significantly decrease the margin of safety.

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. Appendix J permits the use of any one of the three test methods. The TS change will reference Appendix J. Accordingly, the Commission proposes to determine that the requested amendment does not involve a significant hazards consideration.

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. 50-261, H. B. Robinson Steam Electric Plant, Unit No. 2, Darlington County, South Carolina

Date of amendment request: April 27, 1989

Description of amendment request: The request proposes to amend the Technical Specifications (TS) to add surveillance requirements to Table 4.1-3 for the automatic bus transfers on the auxiliary feedwater (AFW) system valve V2-16A and service water (SW) system valve V6-16C. The proposed change would require a refueling interval test of the thermal and magnetic trip of elements of the molded case circuit breakers associated with valves V2-16A and V6-16C.

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.

Carolina Power & Light Company has reviewed the proposed TS change request and determined that this change does not constitute a significant hazards consideration based upon the following:

1. Operation of the facility, in accordance with the proposed amendment, would not involve a significant increase in the probability or consequences of an accident previously analyzed because the testing proposed is performed while the reactor is in cold shutdown/refueling and the systems tested are not required to be operable. In addition, there is no accident previously analyzed that is initiated by the AFW or SW systems components involved. Also, since no accidents for which AFW provides a mitigation function occur while the reactor is in cold shutdown/refueling, no accident consequences can increase. The SW valve involved is redundant to other valves which isolate cooling to the nonsafety-related secondary system plant auxiliaries following a station blackout coincident with a Safety Injection actuation to minimize the non-safety loads on SW during that event. The testing to be performed is done at a time when accidents coincident with station blackout are not postulated, therefore, no accident consequences can be increased.

2. Operation of the facility in accordance with the proposed amendment would not create the possibility of a new or different kind of accident from any accident previously evaluated because no changes to existing equipment are involved, and the breakers being tested and their associated valves will be verified operable prior to returning the plant to a condition requiring their operability, therefore, no failure mechanisms are introduced.

3. Operation of the facility, in accordance with the proposed amendment, would not involve a significant reduction in a margin of safety since the testing noted will not alter any accident mitigating function required, and assures the breakers will perform their intended function. The existing margin of safety is preserved.

In addition, the proposed amendment is similar to Example ii of amendments likely to involve no significant hazards consideration: "[a] change that constitutes an additional ... control not presently included in the technical specifications," as published in the Federal Register on March 6, 1986.

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 proposed to determine that the requested amendment does not involve a significant hazards consideration.

Local Public Document Room location: Hartsville Memorial Library, Home and Fifth Avenues, Hartsville, South Carolina 29535.

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, et al., Docket No. 50-400, Shearon Harris Nuclear Power Plant, Unit 1, Wake and Chatham Counties, North Carolina

Date of amendment request: April 11, 1989

Description of amendment request: The proposed Technical Specification changes will revise the limit of maximum fuel enrichment. This amendment request deals only with handling and storage of the higher enriched fuel. Plant operation using the higher enriched fuel will be demonstrated to be acceptable by a cycle specific reload safety evaluation performed prior to fuel loading. Specifically, the proposed changes will be as follows: (1) change Technical Specification 5.3.1, which currently requires that reload fuel have a maximum enrichment of 4.20 weight percent U-235, to allow a maximum enrichment of 5.0 weight percent U-235; (2) add to Technical Specification 5.6.1, concerning design requirements of the Spent Fuel Storage Racks, an additional requirement to require that a maximum core geometry infinite multiplication factor for PWR fuel assemblies be less than or equal to 1.470 at 68° F; and (3) revise the numbering sequence of Section 5.6.1, Criticality, to eliminate duplicate specification numbers.

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 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 changes relate only to the consequences of an accident as they do not in any way impact the manner in which any systems or components involved in the initiation of an accident function. To evaluate the impact on consequences, three distinct areas are covered: 1) maintaining the fuel rack Keff less than or equal to 0.95; 2) maximum heat load generated by the fuel in the fuel pools; and 3) impact on radiological dose.

The proposed change specifies a new Technical Specification requirement on the maximum reactivity an assembly may have at any time in its life. Credit can be taken for burnable poison integral to the fuel in determining an assembly's reactivity.

This new requirement assures that Keff will remain below 0.95 in the fuel racks; therefore, the consequences of storage of higher enriched fuel remains unchanged.

An evaluation has been performed to determine the impact of higher enriched fuel on the pool heat load analysis presented in the FSAR.

An evaluation assuming batch average discharge exposures up to 50,000 MWD/MTU (lead rod exposures of 60,000 MWD/MTU) has shown that the current heat loads assumed in the FSAR remain bounding.

Westinghouse has performed an evaluation to determine the potential impact of higher enrichment (and burnup) on the radiological consequences of the accidents presented in the FSAR. They have concluded that the impact of enrichments up to 5.0 w/o and lead rod burnups up to 60,000 MWD/MTU can be bounded by assuming a 4 percent increase in radiological dose. The potential increase in consequences is not significant based on the large margins to the 10CFR100 limits present in the existing analyses. Furthermore, it is concluded that if one takes into consideration that the current FSAR analyses are based on a power level of 2900 MWT (for determining fission product inventory in the gap) instead of 2775 MWT, the current FSAR radiological dose consequences are bounding.

The changes to the numbering sequence of Section 5.6.1 are administrative in nature and, therefore, cannot involve an increase in the probability or consequences of an accident previously evaluated.

2. The proposed amendment does not create any new scenarios for system or equipment malfunctions. The changes are integral to the fuel and do not create any new or special handling, storage, or operating concerns.

The changes to the numbering sequence of Section 5.6.1 are administrative in nature and, therefore, cannot create the possibility of a new or different kind of accident.

3. The proposed changes do not result in a significant reduction in the margin of safety. Evaluations have been performed that show the Keff in the racks can be maintained less than 0.95, that the change will not result in any spent fuel pool heat loads greater than those previously analyzed and that radiological dose consequences remain well within the 10CFR100 guidelines, and are not significantly different than those currently reported.

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 Station, Unit Nos. 1 and 2, Ogle County, Illinois

Date of application for amendments: April 7, 1989

Description of amendments request: These amendments would remove two motor operated valves from Technical Specification Tables 3.8-2a and 3.8-2b.

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 safety hazards considerations if operation of the facility in accordance with the proposed amendment would not:

1. Involve a significant increase in the probability or consequence of an accident previously evaluated; or

2. Create the possibility of a new or different kind of accident from any accident previously evaluated; or

3. Involve a significant reduction in a margin of safety.

The proposed amendment removes motor-related valves OSX063A and OSX063B from Technical Specification Tables 3.8-2a and 3.8-2b. A modification was performed which converted the valves from motor-operated valves to manual valves by removing the electrical connections. The valves are maintained locked open and no longer require thermal overload protection devices and, therefore, do not meet the criteria for inclusion in Specification 3.8.4.2.

The basis for operability of the thermal overload protective devices on motor-operated valves is to ensure that these devices will not prevent safety related valves from performing their function. These valves are the essential service water inlet valves to the control room chillers. These valves were originally designed to isolate essential service water from the chillers if the essential service water temperature was near freezing. It has been determined that this function was not necessary because essential service water temperatures during winter conditions do not decrease to a point requiring chiller isolation. The modification converted the motor-operated valves to manual locked open valves, thereby, ensuring an essential service water supply to the control room chillers and minimizing the potential of an electrical or mechanical failure interrupting the water supply. Since the valves perform their required function and no longer have thermal overload protective devices, the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously analyzed. The proposed amendment is essentially administrative in nature, removing valves from a Technical Specification table that no longer applies. This amendment does not affect the valves' functional ability to provide essential service water to the control room chillers.

The proposed amendment does not involve a significant reduction in the margin of safety. The change to the Technical Specifications is administrative and does not affect a margin of safety. Converting the valves from motor-operated to manual locked open enhances their reliability to provide essential service water to the control room chillers, since the service water supply path is less susceptible to electrical or mechanical failures.

Therefore, based upon the above analysis, the staff concludes that the proposed amendment to the Technical Specification does not involve a significant hazards consideration.

Local Public Document Room location: The Rockford Public Library, 215 N. Wyman Street, Rockford, Illinois 61101.

Attorney to licensee: Michael Miller, Esquire; Sidley and Austin, One First National Plaza, Chicago, Illinois 60603.

NRC Project Director: Daniel R. Muller

Commonwealth Edison Company, Docket Nos. 50-237 and 50-249, Dresden Nuclear Power Station, Unit Nos. 2 and 3, Grundy County, Illinois

Date of application for amendment request: December 21, 1988 as supplemented May 4, 1989.

Description of amendment request: The December 21, 1988 application was previously noticed in the Federal Register on May 17, 1989 (54 FR 21300). As orginally submitted, the proposed amendment would remove excessive testing requirements for other systems or subsystems of the Emergency Core Cooling Systems or Standby Gas Treatment Systems when one system or subsystem is inoperable. The current supplement to the original submittal provides clarification to the wording of the footnote in proposed Table 4.5.1 concerning High Pressure Coolant Injection (HPCI) surveillance requirements and clarification of how the proposed amendment meets the intent of Standardized Technical Specification Section 4.5.1 provisions related to the Emergency Core Cooling System line "keep fill" requirements and valve position verifications. In addition, the following two changes were requested in this submittal to be added to the proposed amendment. One change proposes that a surveillance requirement (SR) be added to the Containment Cooling Service Water System (CCSW), to assure system readiness that is similar to the Standard Technical Specification for the Residual Heat Removal Service Water System (STS SR 4.5.1.a.3). The second change which is purely administrative inserts the words "not used" under Section 3/4.5.G to indicate that it was deleted by a previous amendment.

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 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 any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee addressed the above three standards in the amendment application as follows:

(1)Involve a significant increase in the probability or consequences of an accident previously evaluated because:

The additional LCO action statement for the HPCI system and proposed SR for the CCSW system aid in the early detection of potential inoperability of essential systems. These additions and the Technical Specification Section 3/4.5.G administrative change will not affect the probability of any accident previously evaluated.

(2)Create the possibility of a proposed or different kind of accident from any previously evaluated because:

No new modes of operation will be created by these changes nor will the plant be allowed to operate beyond prescribed limits. These supplemental changes to the previously proposed amendment are all enhancements or administrative in nature. Therefore, the probability of new or different accidents has not been created.

(3)Involve a significant reduction in the margin of safety because: Implementing the proposed supplemental changes will not create any challenge to the existing safety analyses. The addition of valve position verifications can only aid in the early detection of inoperability of the CCSW system. The proposed HPCI system LCO action statement will not allow reactor startup to continue until HPCI operability is assured. The Technical Specification Section 3/4.5.G change is purely administrative. Therefore, the margin of safety is maintained.

The staff has reviewed the licensee's no significant hazards analyses given above. Based on this review, the staff proposes to determine that the proposed amendments meet the three 10 CFR 50.92(c) standards and do not involve a significant hazards consideration.

Local Public Document Room location: Morris Public Library, 604 Liberty Street, Morris, Illinois 60450.

Attorney for licensee: Michael L. Miller, Esquire; Sidley and Austin, One First National Plaza, Chicago, Illinois 60603.

NRC Project Director: Daniel R. Muller

Consolidated Edison Company of New York, Docket No. 50-247, Indian Point Nuclear Generating Unit No. 2, Westchester County, New York

Date of amendment request: December 28, 1988, as clarified May 10, 1989

Description of amendment request: The proposed amendment would revise Technical Specification 4.16 to add a new surveillance test for the Safety Injection System low head injection line check valves 897A-D and Residual Heat Removal check valves 838A-D. The proposed amendment would also make certain editorial changes (e.g., delete underlines, add commas, move text to another page, etc.) which are administrative in nature.

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 considerations if operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee provided the following analysis of the proposed changes:

In accordance with the requirements of 10 CFR §50.92, the proposed Technical Specification changes are deemed to involve "no significant hazards considerations."

1. Operation of Indian Point Unit 2 in accordance with these changes would not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed Technical Specification test requirement is currently required by the February 11, 1980 Confirmatory Order Item A.5. This proposed amendment merely transfers the test requirement from the Confirmatory Order to the Indian Point Unit 2 Technical Specifications. Moreover, the consequences of doing or not doing this testing have been previously reviewed by NRC in various submittals; namely our March 14, 1980 response to NRC's February 25, 1980 Generic Letter "LWR Primary Coolant System Pressure Isolation Valves, and NRC's Confirmatory Order dated February 11, 1980 and subsequent Commission rescission of that Order dated July 5, 1985. By committing to test the SIS low head injection line check valves 897A-D and the RHR check valves 838A-D whenever RCS pressure has decreased to within 100 psig of the RHR system design pressure, the probability of coincident disc rupture of the two series check valves, as analyzed in the Indian Point Probabilistic Safety Study (IPPSS), is reduced to approximately 2.9×10^{-7}/reactor year from 4.4×10^{-6}/reactor year. The latter value is based on IPPSS methodology using five year average failure rates to represent the "no testing" case, which is consistent with WASH-1400. Since Indian Point Unit 2 has a normally closed motor-operated valve in the

injection flow path in addition to the two series check valves, the probability of an intersystem loss-of-coolant accident (Event V) via this path, as analysed in the IPPSS, is further reduced to approximately 2.6 x 10⁻⁹/reactor year. All failure rates quoted above are mean valves.

2. Operation of Indian Point Unit 2 in accordance with these changes would not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed Technical Specification test requirement is currently required by NRC's February 11, 1980 Confirmatory Order, Item A.5, and is required to address the intersystem loss-of-coolant accident (Event V) identified in the WASH-1400.

By transferring the requirement to perform the particular test from the Order Item A.5 to the Technical Specifications, a new or different kind of accident from that previously evaluated cannot be created.

3. Operation of Indian Point Unit 2 in accordance with these changes would not involve a significant reduction in a margin of safety.

The proposed Technical Specification test requirement, which is currently required by the February 11, 1980 Confirmatory Order Item A.5, does not reduce nor change the margin of safety from that existing now. The proposed amendment only transfers the requirement to perform the particular test from the Order Item A.5 to the Technical Specifications. It has previously been demonstrated that by performing the test the margin of safety increases.

The Commission has provided guidance concerning the application of the standards for determining whether "significant hazards considerations" exist by providing certain examples at 48 FR 14870 (April 6, 1983; Interim Final Rule) and at 51 FR 7744 (March 6, 1986; Final Rule).

Example (ii) of 51 FR 7744 (Vol. 51, No. 44, Page 7751), which applies to the addition of the surveillance requirement in the Indian Point Unit 2 Technical Specifications, states:

"(ii) a change that constitutes an additional limitation, restriction, or control not presently included in the technical specifications, e.g., a more stringent surveillance requirement."

In addition, example (i) of 51 FR 7744, which applies to the editorial changes, states:

"(i) A purely administrative change to technical specifications: for example, a change to achieve consistency throughout the technical specifications, correction of an error, or a change in nomenclature."

Therefore, since this application for amendment satisfies the criteria specified in 10 CFR §50.92, and is similar to examples for which no significant hazards considerations exist, the licensee has made a determination that the application involves no significant hazards considerations.

The staff agrees with the licensee's analysis. Therefore, based on the above, the staff proposes that the proposed amendment will not involve a significant hazards consideration.

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10610.

Attorney for licensee: Brent L. Brandenburg, Esq., 4 Irving Place, New York, New York 10003

NRC Project Director: Robert A. Capra

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 26, 1989

Description of amendment request: The proposed amendments would change the elevation at which seismic monitor 1MIMT 5010 is located from 613'+8 9/16" to 588'+6 1/8". This elevation is stated in Item 2.a. of Technical Specification (TS) Tables 3.3-7 and 4.3-4. The relocation of the monitor was required because of operability concerns associated with its previous location. A description of the inoperability and the plans to relocate the monitor were submitted by Duke Power Company in a special report dated February 24, 1989. The changes are applicable to Unit 1 only. Unit 2 is included administratively because the TSs are combined in one document for both units.

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 amendments would not involve a significant increase in the probability or consequences of an accident previously evaluated because the new location of the monitor meets the intent of Regulatory Guide 1.12. The monitor will be operable and capable of performing its intended safety function. The new location would not have any impact on the operation of station and would not affect the previously evaluated accidents.

The proposed amendments would not create the possibility of a new or different kind of accident from any accident previously evaluated because the monitor relocation would not introduce any new modes of operation. Moreover, the monitor would be operable and capable of performing its intended safety function.

The proposed amendments would not involve a significant reduction in a margin of safety because the proposed changes would alleviate the operability concern of the monitor. As such, they may enhance the safety margin.

Based on the above considerations, the Commission proposes to determine that the proposed 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: May 9, 1989

Description of amendment request: The proposed amendment would revise the Technical Specifications and associated Basis pages to permit use of upgraded Westinghouse fuel design in fuel cycle 8 and future cycles. The upgraded fuel design features include the VANTAGE 5H design features, reconstitutable top nozzles, debris filter bottom nozzles, snag resistent grids and standardized fuel pellets. The licensee provided a Westinghouse report titled "Plant Safety Evaluation for Beaver Valley Power Station Unit 1 Fuel Upgrade and Increased Peaking Factors" to support the requested changes.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists in accordance with 10 CFR 50.92(c). A proposed amendment to an operating license for a facility involves no significant hazard consideration if operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated, (2) create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in a margin of safety.

The licensee stated that the proposed changes have been assessed from a core design and safety analysis standpoint.

Extensive reanalyses were undertaken to demonstrate compliance with the revised technical specifications. The methods used to perform the analyses have been previously approved by the NRC. The results, which include transition core effects, show changes in the consequences of accidents previously evaluated. The results are all within NRC acceptance criteria. The major components that determine the structural integrity of the fuel assembly are the grids. Mechanical testing and analysis of the VANTAGE 5H Zircaloy grid and fuel assembly have domonstrated that the VANTAGE 5H structural integrity under seismic/LOCA loads will provide margins comparable to the currently used STD 17 x 17 fuel assembly design and will meet all design bases. Therefore, the proposed amendment does not result in an increase in the probabilities or consequences of a previously evaluated accident.

The proposed changes are improvements over, and are comparable to the existing core design. These changes do not significantly affect the overall method and manner of plant operation. Thus no new accidents could result from these changes.

Finally, while new analyses were performed, the acceptance criteria would not be changed from existing criteria. The new analyses show that the upgraded core design results in no significant change in safety margin.

The staff therefore proposes to determine that the requested amendment involves no significant hazards considerations.

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

Duquesne Light Company, Docket No. 50-412, Beaver Valley Power Station, Unit No. 2, Shippingport, Pennsylvania

Date of amendment request: May 4, 1989

Description of amendment request: The proposed amendment would revise the reactor trip system overtemperature delta T and overpower delta T response times listed in Table 3.3-2 from 4.0 seconds to 5.5 seconds. The current design basis requirements for each of these reactor trip total response time is 6.0 seconds. This total response time is defined as the delay from when the temperature in the reactor coolant loop exceeds the trip setpoint until the control rods are free to fall into the core. An evaluation of the results of the initial startup test indicated that the 6.0 second time response assumed in the FSAR was not met. The licensee determined that the control rods were responding slower than expected. The proposed amendment would increase the above response times by 1.5 seconds to accommodate the slower response.

The licensee has evaluated the design-basis accidents affected by this increase and concluded that the negative effects on the consequences on these accidents are minimal and that all safety acceptance criteria continue to be met.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists in accordance with 10 CFR 50.92(c). A proposed amendment to an operating license for a facility involves no significant hazard 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.

As stated above, since reanalyses of design-basis accidents show that the increased response times have minimal effects, it follows that the proposed amendment would not involve any increase in the probability or consequences of previously analyzed accidents.

No hardware, software or operational procedures are changed. Hence no new accidents could be created. Finally, since no previously analyzed accidents are affected, no safety margins need to be reduced.

The staff therefore proposes to determine that the requested amendment involves no significant hazards considerations.

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

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50-424 and 50-425, Vogtle Electric Generating Plant, Units 1 and 2, Burke County, Georgia

Date of amendment request: May 9, 1989

Description of amendment request: The proposed amendment revises the action requirements and surveillance requirements of Technical Specification 3/4.6.1.6, "Containment Structural Integrity" and its bases. The proposed changes to action requirements would eliminate unnecessary shutdowns by allowing for the performance of engineering evaluations of non-conforming conditions. The proposed changes to surveillance requirements incorporate plant-specific design, installation, and material considerations, and provide greater detail regarding test methods and acceptance criteria.

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.

In regard to the proposed amendment, the licensee has determined the following:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated. The proposed change revises the action requirements and surveillance requirements of the Containment Structural Integrity Technical Specifications. The change does not involve any physical alteration of the containment or any change to a setpoint or operating parameter. The change does not add any new equipment which could be the source of a malfunction or accident. Since the change does not affect equipment involved in the initiation of previously evaluated accidents, the probability of such accidents is not increased. With respect to the consequences of previously evaluated accidents, the change ensures that the mitigation capability of the containment is not decreased. The proposed changes to action statements b and c are as restrictive as those in the current Technical Specifications in the sense that a condition of significant structural integrity degradation is

required to be corrected within 72 hours or the unit(s) shut down. For conditions not involving significant degradation, the proposed action statements do not dictate unit shutdown; however, continued structural capability is required to be verified within 72 hours. The proposed action statements continue to require an engineering evaluation of deviations from acceptance criteria. The proposed surveillance requirements provide greater detail regarding test methods and acceptance criteria, and incorporate Vogtle-specific design, installation, and material considerations. Removal of the upper limit on lift-off forces eliminates needless entry into an action statement for a condition not involving abnormal degradation. Revisions to tendon detensioning and retensioning requirements minimize the possibility of damage during testing. Performing visual inspections of end anchorages and adjacent surfaces during tendon surveillance as opposed to during Type A testing will result in more uniform application of test criteria. Based on the above discussion, the proposed action requirements and surveillance requirements assure that containment structural integrity will be maintained at or above the level required by the current Technical Specifications. The containment will, therefore, continue to be capable of mitigating accidents as discussed in FSAR Chapters 6 and 15. Hence, the consequences of previously evaluated accidents are not increased.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated. The change does not add any new equipment to the plant or require any existing equipment to be operated in a different manner from which it was designed to operate. Since a new failure mode is not introduced by the change, a new or different kind of accident could not result.

3. The proposed change does not involve a significant reduction in a margin of safety. The change does not affect any safety limits or limiting safety system settings. The change does not involve a reduction of acceptance criteria where the potential for significant structural integrity degradation exists. The proposed action statements and surveillance requirements assure that the capability to withstand the maximum containment pressure of 41.9 psig in the event of a main steam line break is maintained over the life of the facility. Margins of safety are therefore not decreased.

The NRC staff has reviewed the licensee's determination and concurs with its findings.

Accordingly, the Commission proposes to determine that the proposed change involves no significant hazards considerations.

Local Public Document Room location: Burke County Public Library, 412 Fourth Street, Waynesboro, Georgia 30830.

Attorney for licensee: Mr. Arthur H. Domby, Troutman, Sanders, Lockerman and Ashmore, Candler Building, Suite 1400, 127 Peachtree Street, N.E., Atlanta, Georgia 30043.

NRC Project Director: David B. Matthews

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: April 24, 1989

Description of amendment request: The proposed amendment would revise Specification 3.12.A.1.b to correctly identify the High Pressure Water Fire Protection System boundary. As currently written, this specification could be misinterpreted to imply the existence of water flow alarms on the hose station risers. System design includes water flow alarms on the water spray and sprinkler systems, but does not include such alarms on the hose station risers.

The design of the system has been reviewed and approved in the Fire Protection Safety Evaluation Report issued by the NRC on August 1, 1979. Additionally, the monthly surveillance requirements in Specifications 4.12.A and 4.12.D ensure the integrity of the hose station and riser.

Basis for proposed no significant hazards consideration determination: In accordance with the Commission's Regulations in 10 CFR 50.92, the Commission has made a determination that the proposed amendment involves no significant hazards considerations. To make this determination the staff must establish that 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 amendment and determined that it is purely administrative in nature and provides a clarification to the Technical Specifications. Operation of the James A. FitzPatrick Nuclear Power Plant 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 intent of the proposed change is purely administrative in nature to clarify the Technical Specifications. There are no changes to setpoints, safety limits, surveillance requirements, or limiting conditions for operation. These changes will have no impact on previously evaluated accidents.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated. The proposed change is purely administrative in nature and is intended to clarify and improve the quality of the Technical Specification. The change cannot create the possibility of a new or different kind of accident.

3. Involve a significant reduction in a margin of safety. The proposed changes is purely administrative in nature and clarifies and improves the quality of the Technical Specifications. This change does not contain any setpoint or safety limit changes regarding isolation or alarms. The proposed change does not affect the environmental monitoring program. This change does not affect the plant's safety systems and does not reduce any safety margins.

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: April 24, 1989

Description of amendment request: The proposed amendment would remove the Technical Specification (TS) requirement to perturb the reactor vessel water level as part of the monthly functional test for the reactor water low level scram instruments. The test involves changing the reactor water level setpoint using the feedwater control system and visually noting that the level change is reflected by appropriate level instruments. The licensee noted that the test is an operational inconvenience, is not a regulatory requirement, is not required by the Standard Technical Specifications, and is superfluous to the existing level instrument checks required by TS Section 4.1, Table 4.1-1, Note (8). Specifically, the proposed amendment would remove the reference to Note (5) from Table 4.1-1 on page 44 and delete Note (5) from the "Notes for Table 4.1-1" on page 45a.

Basis for proposed no significant hazards consideration determination: In accordance with the Commission's

Regulations in 10 CFR 50.92, the Commission has made a determination that the proposed amendment involves no significant hazards considerations. To make this determination the staff must establish that 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 TS change and determined that they are administrative in nature and promote consistency with the Standard Technical Specifications. The proposed changes do not involve modification of any existing equipment, systems, or components; nor do they alter the conclusions of the plant's accident analyses or radiological release analyses. Further, operation of the FitzPatrick Plant 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 proposed Technical Specification changes to delete the requirements in Table 4.1-1 to perturb the reactor water level after functional tests of water level scram instruments is administrative in nature. The operability of the level sensors and trip channels are being adequately verified by other surveillance requirements which are consistent with the RPS design basis, the Standard Technical Specifications, and the vendor's (GE) recommendations for ATTS components (General Electric Topical Report NEDO-21617-A and accompanying NRC letter of approval dated June 27, 1978).

The proposed changes do not involve modification of any existing equipment, systems, or components; nor do they alter the conclusions of the plant's accident analyses or radiological release analyses as documented in the FSAR or the NRC Staff's SER.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated. The proposed changes are administrative in nature and do not introduce any new failure modes. They do not involve modification to any of the plant's equipment, systems, or components; nor do they place the plant in an unanalyzed configuration.

3. Involve a significant reduction in a margin of safety. The proposed changes affect the capability for checking the operational availability of the sensor inputs to the Reactor Protection System (RPS). Consistent with the IEEE-279-1971, the deletion of the pertubation requirement does not degrade the RPS design basis because each of the reactor water level sensors are being cross-checked with each other on a daily basis. The proposed change deletes a superfluous testing requirement and does not involve modification of the plant's systems, equipment, or components.

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

Public Service Electric & Gas Company, Docket No. 50-354, Hope Creek Generating Station, Salem County, New Jersey

Date of amendment request: May 5, 1989

Description of amendment request: Increase the channel functional test surveillance intervals for various Control Rod Block instrumentation.

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. In accordance with 10 CFR 50.92 the licensee has reviewed the proposed changes and has concluded as follows that they do not involve a significant hazards consideration:

1. Do not involve a significant increase in the probability or consequences of an accident previously evaluated.

As detailed in NEDC-30851P-A, Supplement 1 the sequence of events necessary for an unmitigated rod withdrawal error includes failure of the Local Power Range Monitor (LPRM), failure of the Average Power Range Monitor (APRM) upscale trips, failure of the APRM upscale rod block, dual channel failure of the Rod Block Monitor, and of course operator failure to recognize and respond to any of these events. The BWR Owner's Group evaluated the impact of increased STIs on the probability of control rod block failure and concluded that a rather small increase in scram frequency results. However, both the absolute and relative increase is acceptably low and offset by the benefits of extending the Reactor Protection System (RPS) test intervals [(see NEDC-30851P and the PSE&G to NRC submittal dated February 6, 1989.)] Therefore, it can be concluded that the proposed changes do not involve a significant increase in the probability of an accident previously evaluated.

The consequences of an unmitigated rod withdrawal error were also addressed in NEDC-30851P-A, Supplement 1. Specifically, such an incident is very mild compared to the limiting reactivity accident - a control rod drop accident. The BWR Owner's Group indicated that the severity of a control rod drop accident bounds a rod withdrawal error due to the higher rate of reactivity addition. HCGS Updated Final Safety Analysis Report (UFSAR) Section 15.4.9 and Tables 15.4-15 and 15.4-21 provides the plant specific evaluation of the control rod drop accident. As a result of consequences of a rod withdrawal error were shown to be substantially less than those associated with a dropped rod accident and less than 1% of the specified site boundary dose limits. This low consequence combined with the low probability of an unmitigated rod withdrawal error results in a negligible increase in risk which is offset by decreased risks associated with reduced testing of rod block and RPS instrumentation.

2. Do not create the possibility of a new or different kind of accident from any previously evaluated.

The increased Control Rod Block surveillance test intervals do not alter the function of the instrumentation nor involve any type of plant modification. Additionally, no new modes of plant operation are involved with these changes. Therefore, it can be concluded that the proposed changes do not create the possibility of a new or different kind of accident than any accident previously evaluated.

3. Do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed and approved the generic study contained in Licensing Topical Report NEDC-30851P-A, Supplement 1 and has concurred with the BWR Owner's Group that the proposed changes do not significantly affect the reliability or availability of the Control Rod Block instrumentation. Hence it can be concluded that the proposed changes do not adversely affect plant safety margins.

The staff reviewed the licensee's determination that the proposed license amendment involves no significant hazards consideration and agrees with the licensee's analysis. Accordingly, the staff proposes to determine that the proposed license amendment does not involve a significant hazards consideration.

Local Public Document Room location: Pennsville Public library, 190 S. Broadway, Pennsville, New Jersey 08070

Attorney for licensee: Troy B. Conner, Jr., Esquire, Conner and Wetterhahn,

1747 Pennsylvania Avenue, NW., Washington, DC 20006

NRC Project Director: Walter R. Butler

Public Service Electric & Gas Company, Docket No. 50-311, Salem Generating Station, Unit No. 2, Salem County, New Jersey

Date of amendment request: May 5, 1989

Description of amendment request: The licensee proposes to revise Section 4.7.9.e.1 of the Salem Unit 2 Technical Specifications. The change will delete an aspect of mechanical snubber surveillance test acceptance criteria which requires a verification that the snubber drag force has not increased more than 50% since the previous functional test. This change was approved for Salem Unit 1 on an emergency basis on May 12, 1989.

Basis for proposed no significant hazards consideration determination: The existence of the 50% drag force increase criterion in the mechanical snubber inservice inspection program represents an unnecessary constraint on the verification of snubber operability. A snubber with a drag force greatly below the specified limit may experience an increase in drag force that is small in absolute terms, but exceeds 50% of the previous test result. This results in an increase in the test population under the present program.

The snubber manufacturer (Pacific Scientific) has published a test report related to mechanical snubber drag force loading (Test Report 871, dated April 13, 1984). The results of these tests indicate that an increase in drag force from one inspection period to the next does not establish a trend that can be used to predict pending snubber failure. The proposed change does not change the following aspects of the snubber surveillance program:

1. Visual inspections and associated acceptance criteria, which include manual certification of freedom of movement where possible.

2. Retesting of any snubbers and/or replacements which failed the previous test.

3. Testing of all snubbers of the same design as a snubber selected for functional testing that fails to move or fails to lockup due to a design or manufacturing defect.

4. Verification that the drag force is less than the specified allowable value.

5. Verification that activation is achieved within the range of velocity or acceleration specified for both tension and compression.

6. Verification of acceptable release rate or ability to withstand load without displacement, as applicable.

7. Compliance with ASME Section XI per Technical Specification 4.0.5.

The measures listed above comprise an adequate program for assuring snubber operability. Verifying that drag force is within its specified allowable limit (Item 4 above) is the primary means of determining that the drag force is acceptable. The requirement being deleted by this proposed change may cause an unnecessary increase in the snubber test population even if the drag force is well below the acceptance criteria. This represents an inappropriate use of resources and an increase in radiation worker exposure.

The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has analysed the proposed amendment to determine if a significant hazards consideration exists:

1)Operation of the facility in accordance with the proposed amendment would not involve a significant increase in the probability or consequences of an accident previously evaluated.

The aspects of the snubber inspection program discussed (in Section III) above address the needed snubber functional requirements and should therefore be deemed acceptable for determining snubber operability. The proposed change does not adversely affect the snubber inspection program. The relevant specified parameters for each snubber subjected to functional testing will still be verified to be within allowable limits. Consequently, the proposed change does not increase the likelihood of snubber inoperability, nor does it increase the adverse effects of such inoperability on the associated systems.

The snubbers are included in the system design to mitigate the effects of a seismic event and allow for thermal expansion of the piping. The functional testing described above will determine the capability of the snubber to meet these requirements. The 50% drag force load comparison currently required by Technical Specification 4.7.9.e.1 does not supplement the operability determination of the snubber and can be deleted without adverse impact on the associated system.

Therefore, it may be concluded that the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2)Operation of the facility in accordance with the proposed amendment would not create the possibility of a new or different kind of accident from any previously evaluated.

The proposed change does not involve changes to the design or application of snubbers. It does not involve any design or configuration changes to the plant. No new accident scenarios or new component failure mechanisms are introduced. Therefore, it may be concluded that the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3)Operation of the facility in accordance with the proposed amendment would not involve a significant reduction in a margin of safety.

Snubbers provide assurance that the structural integrity of the fluid systems subjected to dynamic loads is maintained. The margin of safety associated with snubbers is related to the specified allowable limits imposed on performance parameters, including maximum allowable drag force. This change proposes to delete a test acceptance criterion related to a change in the measured drag force, and does not increase the maximum allowable value. Therefore, it may be concluded that the proposed change does not involve a reduction in a margin of safety as defined by the Technical Specifications.

The staff has reviewed the licensee's submittal and significant hazards analysis and concurs with the licensee's determination that the proposed amendment does not involve a significant hazards consideration. Therefore, the staff proposes to determine that the proposed amendment involves no significant hazards consideration.

Local Public Document Room location: Salem Free Public library, 112 West Broadway, Salem, New Jersey 08079

Attorney for licensee: Mark J. Wetterhahn, Esquire, Conner and Wetterhahn, Suite 1050, 1747 Pennsylvania Avenue, NW., Washington, DC 20006

NRC Project Director: Walter R. Butler

Sacramento Municipal Utility District, Docket No. 50-312, Rancho Seco Nuclear Generating Station, Sacramento County, California

Date of amendment request: February 28, 1986, revised May 14, 1987, as supplemented August 31, 1988

Description of amendment request: The proposed Technical Specification amendment would change Table 3.6-1 of the Rancho Seco specifications. Table 3.6-1 contains a list of containment isolation valves with a notation

indicating the maximum permissible closure time for each valve. The proposed change would include administrative changes to the table, add 12 previously installed valves to the table, decrease the maximum closure time for the reactor coolant pump seal return valve from 71 seconds to less than 60 seconds, and revise the maximum permissible closure time for selected valves. The maximum closure time for these valves is presently between 3 and 21 seconds and the proposed change would increase the permissible maximum closure time to 25 seconds.

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. A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with a proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated: (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

A discussion of these standards as they relate to the amendment request follows:

Standard 1 - Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated

The proposed amendment would increase the maximum closure time to 25 seconds for selected containment isolation valves that are not in direct flow paths from the containment atmosphere to the environment. The increase in closure time to 25 seconds of these selected isolation valves has, by licensee analysis, been determined to result in offsite doses that remain within 10 CFR Part 100.11 limits. The licensee determined that at a maximum closure time of 25 seconds, these selected containment isolation valves would not allow a radiation release to the Exclusion Area Boundary (EAB) or Low Population Zone (LPZ) during the worst accident condition (LOCA) that would exceed the limits of 10 CFR Part 100.11. This change would not involve an increase in the proba- bility of an accident previously evaluated but does slightly increase the radiological releases above the values from the previous analysis. The licensee contends that the radiation releases to the EAB and LPZ under the worst accident conditions would result in radiation exposures that are well below the guideline values allowed by 10 CFR Part 100.11.

The proposed amendment would decrease the maximum closure time of the reactor coolant pump seal return valve (SFV-24004) from 71 seconds to less than 60 seconds. This is a more restrictive requirement and complies with Standard Review Plan (SRP) 6.2.4, therefore, not increasing the probability or consequences of an accident.

The proposed amendment would add 12 valves to Table 3.6-1. These containment isolation valves were installed during the 1983 refueling outage and adding the valves to Table 3.6-1 is purely administrative.

Based on the above, the proposed amendment does not, therefore, significantly increase the probability or consequences of an accident previously evaluated.

Standard 2 - Create the Possibility of a New or Different Kind of Accident From Any Accident Previously Evaluated

The proposed amendment would not create the possibility of a new or different kind of accident from what had been previously evaluated. The increase of maximum closure times of the selected containment isolation valves does not introduce a design or operational change that could result in a new or different accident potential that would be worse than the LOCA already considered.

The proposed amendment would add 12 valves to Table 3.6-1. These containment isolation valves were installed during the 1983 refueling outage. Adding the valves to Table 3.6-1 does not change the function of the valves and is considered to be purely administrative.

Based on the above, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Standard 3 - Involve a Significant Reduction in a Margin of Safety

The proposed amendment would not involve a significant reduction in a margin of safety. Although increasing the maximum closure times of the containment isolation valves from the presently specified range of from 3 to 21 seconds, to 25 seconds, does represent a slight increase in exposure, licensee calculations confirm that there remains an adequate margin to the guideline exposures established in 10 CFR Part 100.11. Additionally, the proposed amendment would add 12 valves to Table 3.6-1. These containment isolation valves were installed during the 1983 refueling outage. Adding these valves to Table 3.6-1 does not affect the design bases or function of the valves, and is considered to be purely administrative. Based on the above, the proposed amendment does not involve a significant reduction in a margin of safety.

Based on the above reasoning, the Commission proposes to determine that the proposed amendment does not involve a significant hazards consideration.

Local Public Document Room location: Martin Luther King Regional Library, 7430 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, Dockets Nos. 50-259, 50-260 and 50-296, Browns Ferry Nuclear Plant, Units 1, 2 and 3, Limestone County, Alabama

Date of amendment requests: May 15, 1989 (TS 269)

Description of amendment requests: The proposed amendment would change the BFN technical specifications (TS) for Units 1, 2, and 3 to administratively revise the pilot cell voltage in 4.11.B.3.a(3). In addition, this proposed amendment would update TS SR 4.7.E.4 to include a newly installed damper in the control room emergency ventilation system.

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:

1. The proposed change does not involve a significant increase in the probability or consequence of any accident previously evaluated. These proposed changes do not change or amend any safety analysis for BFN.

Damper FCO-150 G is being added as a result of a Design Change Notice. This damper is required to close upon initiation of the control room emergency ventilation system (CREVS). Adding the damper to the CREVS system assists in the isolation function of the control room in the event of an accident requiring CREVS to operate. The

addition of this damper does not invalidate the safety analysis nor bases in which BFN was licensed for.

The battery pilot cell voltage in BFN Surveillance Requirement 4.11.B.3.a(3) is currently 24 volts which is incorrect. The correct value is 2.0 volts. This is an administrative error which was not corrected in the BFN August 30, 1988 submittal. Changing this value is consistent with the current plant configuration which has been verified through surveillance testing. This change does not change the operation of any safety-related equipment. It only corrects an error in order to more accurately reflect the batteries currently installed in the plant.

2. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The addition of the damper FCO-150 G, and changing the pilot cell voltage to 2.0 volts more accurately reflect the current design and operations of BFN. These changes do not create any new accident mode or release pathway of radioactive effluents to the environment.

3. The proposed amendment does not involve any significant reduction in a margin of safety. The proposed amendment brings the technical specifications more in compliance with the actual design and operation of BFN.

The addition of damper FCO-150 G, and changing the pilot voltage to read 2.0 volts are administrative in nature. Consistent with 10 CFR 50.36, damper FCO-150 G is being added to the TS. The addition of this additional damper not only reflects the current plant configuration but also provides additional isolation capability for the main control room. This will enhance the overall safety to the main control room operators. Revising the pilot cell voltage brings the current TS in compliance with the physical capabilities of the battery.

These changes provide an overall enhancement to plant safety with proper operation of plant equipment. These changes do not significantly decrease the margin of safety.

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: 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, Dockets Nos. 50-259, 50-260 and 50-296, Browns Ferry Nuclear Plant, Units 1, 2 and 3, Limestone County, Alabama

Date of amendment requests: May 15, 1989 (TS 270)

Description of amendment requests: The proposed amendment would change the BFN technical specifications (TS) for Units 1, 2, and 3 to update surveillance requirement 4.6.A.3 and revise the Bases section 3.6/4.6 to comply with 10 CFR Part 50 Appendix H for reactor vessel test specimen testing frequency.

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:

1. The proposed change does not involve a significant increase in the probability or consequence of any accident previously evalu- ated. This is an administrative change in that it only updates the BFN technical specification to comply with the 10 CFR 50 Appendix H. This proposed amendment does not change or modify any safety related equipment, its operation, or safety analysis in which BFN is licensed for.

Updating the TS to ASTM E 185-82 increases the frequency for reactor vessel specimen withdrawal from 8 effective full power years (EFPY) to 6 EFPY. This increase in frequency does not involve any safety issue. The procedures and methods of with drawing these specimens will remain the same.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated. This change is administrative in that it only updates BFN reactor vessel specimen program to ASTM E 185-82. Implementation of this change does not change any equipment or modify any actions required for mitigation of any accident currently analyzed in the BFN FSAR. This change does not create any additional radiation release pathways to the environment.

3. The proposed amendment does not involve any significant reduction in a margin of safety. The change updates the BFN reactor vessel specimen withdrawal program in accordance with 10 CFR 50 Appendix H requirements. BFN has agreement with NRC to withdraw the first specimen from each unit after 8.0 EFPY. After the first specimen is pulled from each unit, subsequent specimens will be pulled at a 6.0 EFPY.

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: 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

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.

Alabama Power Company, Docket Nos. 50-348 and 50-364, Joseph M. Farley Nuclear Plant, Units 1 and 2, Houston County, Alabama.

Dates of application for amendments: August 11, 1986, as supplemented July 22, 1987.

Description of amendments: The amendments extend the expiration dates of the licenses from August 16, 2012 to June 25, 2017 for Unit 1 and from August 16, 2012 to March 31, 2021 for Unit 2.

Date of issuance: May 19, 1989

Effective date: May 19, 1989

Amendment Nos.: 81 and 73

Facility Operating License Nos. NPF-2 and NPF-8. Amendments revise the Licenses.

Date of initial notice in **Federal Register:** September 24, 1986 (51 FR 33939). Because the July 22, 1987 submittal only clarified certain aspects of the original request, the substance of the changes noticed in the **Federal Register** and the proposed no significant hazards determination were not affected. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 19, 1989.

No significant hazards consideration comments received: No

Local Public Document Room location: George S. Houston Memorial Library, 212 W. Burdeshaw Street, Dothan, Alabama 36303.

Arizona Public Service Company, et al, Docket Nos. STN 50-528, STN 50-529 and STN 50-530, Palo Verde Nuclear Generating Station, Units 1, 2 and 3, Maricopa County, Arizona

Date of application for amendments: November 9, 1988

Brief description of amendments: The amendments revise Technical Specifications Section 3/4.4.5, "Reactor Coolant System Leakage" by changing the operability requirements of the containment radioactivity monitoring systems and the associated action statement.

Date of issuance: May 23, 1989

Effective date: May 23, 1989

Amendment Nos.: 43, 28, 17

Facility Operating License Nos. NPF-41, NPF-51 and NPF-74: Amendments changed the Technical Specifications.

Date of initial notice in **Federal Register:** March 8, 1989 (54 FR 9913). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 23, 1989

No significant hazards consideration comments received: No.

Local Public Document Room location: Phoenix Public Library, Business and Science Division, 12 East McDowell Road, Phoenix, Arizona 85004.

Arkansas Power & Light Company, Docket No. 50-313, Arkansas Nuclear One, Unit 1, Pope County, Arkansas

Date of application for amendment: December 12, 1986

Brief description of amendment: This amendment changed the Arkansas Nuclear One, Unit 1 Technical Specifications to remove the text of several temporary specifications which are no longer applicable, regarding gross iodine determination, the sodium thiosulfate system, and the borated water storage tank. The amendment also made several changes to correct typographical errors, and revised wording to provide consistent terminology. It was noted that several of the typographical errors no longer existed and no change was therefore necessary.

Date of issuance: May 25, 1989

Effective date: May 25, 1989

Amendment No.: 121

Facility Operating License No. DPR-51. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** April 22, 1987 (52 FR 13333). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 25, 1989.

No significant hazards consideration comments received: No.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801

Arkansas Power & Light Company, Docket No. 50-368, Arkansas Nuclear One, Unit 2, Pope County, Arkansas

Date of applications for amendment: December 12, 1986

Brief description of amendment: This amendment changed the Arkansas Nuclear One, Unit 2 Technical Specifications (TS) which describe the design features of the Spent Fuel Storage Pool. These changes update the TS to conform with Amendment No. 43 which increased the spent fuel storage capacity for the plant.

Date of issuance: May 23, 1989

Effective date: May 23, 1989

Amendment No.: 95

Facility Operating License No. NPF-6. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** April 19, 1989 (54 FR 15821). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 23, 1989.

No significant hazards consideration comments received: No.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801

Arkansas Power & Light Company, Docket Nos. 50-313 and 50-368, Arkansas Nuclear One, Units 1 and 2, Pope County, Arkansas

Dates of amendment requests: March 20 and 24, 1985

Brief description of amendments: The amendments deleted the remaining portions of the Appendix "B" Technical Specifications for Arkansas Nuclear One, Units 1 and 2, which consisted of a description of land use management for the site and the transmission line right of ways.

Date of issuance: June 1, 1989

Effective date: June 1, 1989

Amendment Nos.: 122 and 96

Facility Operating License Nos. DPR-51 and NPF-6. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** June 29, 1985 (50 FR 25481) and May 21, 1985 (50 FR 20970). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 1, 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 Nos. 50-317 and 50-318, Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, Calvert County, Maryland

Date of application for amendments: April 14, 1986 as supplemented on April 28, 1987

Brief description of amendments: These amendments modify Technical Specification 3/4.8.2.3, "Electrical Power Systems: D.C. Distribution - Operating," by deleting the dummy load profile for the 18-month station battery service test from TS Surveillance Requirement 4.8.2.3.2.d.2 and instead now specify that the load profile is documented in Chapter 8 of the Calvert Cliffs Nuclear Power Plant Units 1 and 2 Updated Final Safety Analysis Report (UFSAR) and shall be update in accordance with the 10 CFR 50.71(e). Modifications of the UFSAR load profile shall be made in accordance with the process described in 10 CFR 50.59.

Date of issuance: May 18, 1989

Effective date: 14 days after the licensee's issuance of a notarized letter the Commission providing official certification of the completion, approval and implementation, in accordance with the provisions of 10 CFR 50.59, of a new station battery design load study for current plant conditions.

Amendment Nos.: 137 and 120

Facility Operating License Nos. DPR-53 and DPR-69. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** October 18, 1988 (53 FR 40982). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 18, 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

Baltimore Gas and Electric Company, Docket Nos. 50-317 and 50-318, Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, Calvert County, Maryland

Date of application for amendments: January 20, 1987 as supplemented on January 12, and June 28, 1988

Brief description of amendments: These amendments delete the current requirement of Units 1 and 2 Technical Specification (TS) Surveillance Requirement 4.6.4.1.2.c to verify that the containment purge air inlet valves (CPA-1410-CV and CPA-1411-CV) and the containment purge air outlet valves (CPA-1412-CV and CPA-1413-CV) close to their actuation positions upon receiving a safety injection actuation system (SIAS) test signal. In addition, reference to the SIAS action of the containment purge valves would be deleted from TS Tables 3.3-3, "Engineered Safety Feature Actuation System Instrumentation," Table 3.3-4, "Engineered Safety Feature Actuation System Instrumentation Trip Valves," and Table 4.3-2, "Engineered Safety Feature Actuation System Surveillance Requirements."

Date of issuance: May 31, 1989

Effective date: May 31, 1989

Amendment Nos.: 138, 121

Facility Operating License Nos. DPR-53 and DPR-69. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** May 1, 1989 (54 FR 18615). The Commission's related evaluation of these amendments is contained in a Safety Evaluation dated May 31, 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: February 1, 1989

Description of amendments: The amendments delete instrument tag numbers from the Technical Specifications, delete one-time TS exceptions that were added as footnotes, and provide other editorial and administrative changes.

Date of issuance: May 22, 1989

Effective date: May 22, 1989

Amendment Nos.: 130 and 160

Facility Operating License Nos. DPR-71 and DPR-62. Amendments revise the Technical Specifications.

Date of initial notice in **Federal Register:** April 5, 1989 (54 FR 13759). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 22, 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.

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: September 4, 1987, as amended and supplemented by letters dated April 5, 1988, February 20, 1989 and March 20, 1989.

Description of amendments: The amendments change the Technical Specifications to (1) modify specifications having cycle-specific parameter limits by replacing the values of those limits with a reference to the Core Operating Limits Report for the values of those limits and (2) delete the redundant linear heat generation rate limit from the specifications.

Date of issuance: May 25, 1989

Effective date: May 25, 1989

Amendment Nos.: 131 and 161

Facility Operating License Nos. DPR-71 and DPR-62. Amendments revise the Technical Specifications.

Date of initial notice in **Federal Register:** April 19, 1989 (54 FR 15822). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 25, 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.

Carolina Power & Light Company, et al., Docket No. 50-400, Shearon Harris Nuclear Power Plant, Unit 1, Wake and Chatham Counties, North Carolina

Date of application for amendment: February 22, 1989

Brief description of amendment: The amendment would modify (1) the most negative moderator temperature coefficient (MTC) limiting condition for operation (LCO), (2) the associated surveillance requirements (SR), and (3) the affected basis. The purpose of this LCO and SR is to ensure that the most negative MTC at end-of-cycle (EOC) remains within the bounds of the Harris safety analysis, in particular, for those transients and accidents that can lead to a moderator temperature decrease (cooldown) or, equivalently, a moderator density increase.

Date of issuance: May 22, 1989

Effective date: May 22, 1989

Amendment No.: 11

Facility Operating License No. NPF-63. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** April 19, 1989 (54 FR 15823). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 22, 1989.

No significant hazards consideration comments received: No

Attorney for the Licensee: R. E. Jones, General Counsel, Carolina Power & Light Company, P. O. Box 1551, Raleigh, North Carolina 27602

Local Public Document Room location: Cameron Village Regional Library, 1930 Clark Avenue, Raleigh, North Carolina 27605.

Commonwealth Edison Company, Docket No. 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 amendment: December 23, 1987, supplemented April 3, 1989

Brief description of amendment: These amendments modify Technical Specificiation Tables 3.3-1 and 4.3-1, as requested in Generic Letter 85-09, for Reactor Trip System Automatic

actuaction using shunt trip coil attachments.

Date of issuance: May 22, 1989

Effective date: May 22, 1989

Amendment No.: 28 for Byron and 17 for Braidwood

Facility Operating License Nos. NPF-37, NPF-66, NPF-72 and NPF-77: The amendment revised the Technical Specification

Date of initial notice in **Federal Register:** April 19, 1989 (54 FR 15824). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 22, 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.

Commonwealth Edison Company, Docket Nos. 50-295 and 50-304, Zion Nuclear Power Station, Unit Nos. 1 and 2, Lake County, Illinois

Date of application for amendments: March 25, 1985, supplemented April 17, 1989 and May 10, 1989.

Brief description of amendments: These amendments revise Tables 3.1-1 and 4.1-1 of the Technical Specifications for Zion units to address operability and surveillance requirements for Reactor Trip Breakers in accordance with Generic Letter 85-09.

Date of issuance: May 30, 1989

Effective date: May 30, 1989

Amendment Nos.: 116, 105

Facility Operating License Nos. DPR-39 and DPR-48. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** May 21, 1985 (50 FR 20973) and April 28, 1989 (54 FR 18367). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 30, 1989.

No significant hazards consideration comments received: No

Local Public Document Room location: Waukegan Public Library, 128 N. County Street, Waukegan, Illinois 60085.

Connecticut Yankee Atomic Power Company, Docket No. 50-213, Haddam Neck Plant, Middlesex County, Connecticut

Date of application for amendment: April 26, 1986, supplemented May 30, 1989.

Brief description of amendment: The amendment adds a new Technical Specification (TS) section on Reactor Coolant System Leakage Detection Systems. This TS will provide limiting conditions of operation and surveillance requirements for the Reactor Coolant System Leakage Detection Systems. With the issuance of the Technical Specification, Systematic Evaluation Program (SEP) Topic V-5, "Reactor Coolant Pressure Boundary Leakage Detection" is considered closed.

Date of Issuance: May 31, 1989

Effective date: May 31, 1989

Amendment No.: 116

Facility Operating License No. DPR-61. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** May 21, 1986 (51 FR 18681). The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated May 31, 1989.

No significant hazards consideration comments received: No.

Local Public Document Room location: Russell Library, 123 Broad Street, Middletown, Connecticut 06457.

Consolidated Edison Company of New York, Docket No. 50-247, Indian Point Nuclear Generating Unit No. 2, Westchester County, New York

Date of application for amendment: September 30, 1988, as supplemented December 30, 1988, January 20, 1989, February 7, 1989, March 3, 1989, and April 14, 1989.

Brief description of amendment: This amendment revises the Indian Point Unit 2 Technical Specifications to allow a fuel design transition to Westinghouse 15x15 Optimized Fuel Assemblies fuel.

Date of issuance: May 18, 1989

Effective date: May 18, 1989

Amendment No.: 140

Facility Operating License No. DPR-26: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 8, 1989 (54 FR 6187). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 18, 1989

No significant hazards consideration comments received: No

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10610.

NRC Project Director: Robert A. Capra

Consumers Power Company, Docket No. 50-255, Palisades Plant, Van Buren County, Michigan

Date of application for amendment: November 21, 1985

Brief description of amendment: This amendment revises the TSs to require specific alternate shutdown system equipment and instrumentation to be operable whenever the reactor coolant temperature is at or above 325° F and imposes periodic surveillance requirements to demonstrate operability of the system. The changes add Specification 3.25, including Table 3.25.1 and Specification 4.20, including Table 4.20.1. Other requests related to the emergency lighting facility are denied.

Date of issuance: May 19, 1989

Effective date: May 19, 1989

Amendment No.: 122

Provisional Operating License No. DPR-20. The amendment revises the Technical Specifications.

Date of initial notice in **Federal Register:** April 19, 1989 (54 FR 15826). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 19, 1989.

No significant hazards consideration comments received: No.

Local Public Document Room location: Van Zoeren Library, Hope College, Holland, Michigan 49423.

Consumers Power Company, Docket No. 50-255, Palisades Plant, Van Buren County, Michigan

Date of application for amendment: March 10, 1987

Brief description of amendment: This amendment revises the Technical Specifications to clarify the sampling requirements for service water discharge, deletes the surveillance requirement for testing the Hi Range Noble Gase Monitor high alarm annunciator, and makes editorial corrections to the Radiological Effluent Technical Specifications implemented by Amendment No. 85 to the Provisional Operating License.

Date of issuance: May 30, 1989

Effective date: May 30, 1989

Amendment No.: 123

Provisional Operating License No. DPR-20. The amendment revises the Technical Specifications.

Date of initial notice in **Federal Register:** April 19, 1989 (54 FR 15826). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 30, 1989.

No significant hazards consideration comments received: No.

Local Public Document Room location: Van Zoeren Library, Hope College, Holland, Michigan 49423.

Consumers Power Company, Docket No. 50-255, Palisades Plant, Van Buren County, Michigan

Date of application for amendment: February 25, 1987

Brief description of amendment: This amendment revises the Technical Specifications to account for

modifications made to the recirculation actuation system (RAS). Those modifications altered the RAS from a two-out-of-four logic to a one-out-of-two-taken-twice logic. This amendment also includes an editorial correction related to a change previously approved by Amendment 31.

Date of issuance: May 31, 1989
Effective date: May 31, 1989
Amendment No.: 124
Provisional Operating License No. DPR-20. The amendment revises the Technical Specifications.

Date of initial notice in **Federal Register:** April 8, 1987 (52 FR 11357). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 31, 1989.

No significant hazards consideration comments received: No.

Local Public Document Room location: Van Zoeren Library, Hope College, Holland, Michigan 49423.

Consumers Power Company, Docket No. 50-255, Palisades Plant, Van Buren County, Michigan

Date of application for amendment: March 14, 1983, supplemented by letters dated May 13, 1985 and February 2, 1988.

Brief description of amendment: This amendment revises the Appendix A TSs relating to peridoic testing of the station batteries. The proposed changes would add specifications 4.7.2.c and 4.7.2.d. Additionally, a change was made to the Basis to identify the purpose of the battery surveillance requirements, and a sentence was rearranged to improve clarity.

Date of issuance: May 31, 1989
Effective date: May 31, 1989
Amendment No.: 125
Provisional Operating License No. DPR-20. The amendment revises the Technical Specifications.

Date of initial notice in **Federal Register:** August 23, 1983 (48 FR 38399). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 31, 1989.

No significant hazards consideration comments received: No.

Local Public Document Room location: Van Zoeren Library, Hope College, Holland, Michigan 49423.

Detroit Edison Company, Docket No. 50-341, Fermi-2, Monroe County, Michigan

Date of application for amendment: March 10, 1989

Brief description of amendment: This amendment revises TS Section 4.3.8.2c to allow a one-time extension to the disassembly and inspection interval for the turbine overspeed protection system valves, specifically, the turbine control valves, high pressure turbine stop valves, low pressure turbine intercept valves, and low pressure turbine stop valves, until the first refueling outage, currently scheduled to begin in September 1989. These tests would have become overdue after May 20, 1989.

Date of issuance: May 19, 1989
Effective date: May 19, 1989
Amendment No.: 33
Facility Operating License No. NPF-43. The amendment revises the Technical Specifications

Date of initial notice in **Federal Register:** April 5, 1989 (54 FR 13763). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 19, 1989.

No significant hazards consideration comments received: No.

Local Public Document Room location: Monroe County Library System, 3700 South Custer Road, Monroe, Michigan 48161.

Detroit Edison Company, Docket No. 50-341, Fermi-2, Monroe County, Michigan

Date of application for amendment: April 21, 1989

Brief description of amendment: This amendment revised the TSs to reflect a design modification to the Reactor Building's railroad bay air lock doers. The modifications to the doors are a result of the licensee discovering the air supply to the inflatable seals on the doors was not safety related.

Date of issuance: May 31, 1989
Effective date: May 31, 1989
Amendment No.: 34
Facility Operating License No. NPF-43. The amendment revises the Technical Specifications.

Date of initial notice in **Federal Register:** April 28, 1989 (54 FR 18382). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 31, 1989.

No significant hazards consideration comments received: No.

Local Public Document Room location: Monroe County Library System, 3700 South Custer Road, Monroe, Michigan 48161.

Duke Power Company, et al., Docket Nos. 50-413 and 50-414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of application for amendments: April 6, 1989, as supplemented April 21, 1989.

Brief description of amendments: The amendments modified the Technical Specifications to identify special Rod Cluster Control Assemblies which will be inserted in the Unit 2 core prior to Cycle 3 operation.

Date of issuance: May 23, 1989
Effective date: May 23, 1989
Amendment Nos.: 64 and 58
Facility Operating License Nos. NPF-35 and NPF-52. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** April 19, 1989 (54 FR 15827). Because the April 21, 1989, submittal clarified certain aspects of the original request, the substance of the changes noticed in the **Federal Register** and the proposed no significant hazards consideration determination were not affected. The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 23, 1989.

No significant hazards consideration comments received: No.

Local Public Document Room location: York County Library, 138 East Black Street, Rock Hill, South Carolina 29730.

Duke Power Company, et al., Docket Nos. 50-413 and 50-414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of application for amendments: August 29, 1988

Brief description of amendments: The amendments modify Technical Specification Tables 4.3-8 and 4.3-9 by adding a footnote regarding the location of the alarm annunciators for radiation monitors EMF-57 and EMF-58 and correct a reference in Table 4.11.1 to EMF-58 which should be EMF-57.

Date of issuance: May 26, 1989
Effective date: May 26, 1989
Amendment Nos.: 65 and 59
Facility Operating License Nos. NPF-35 and NPF-52. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** December 14, 1988 (53 FR 50325). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 26, 1989.

No significant hazards consideration comments received: No.

Local Public Document Room location: York County Library, 138 East Black Street, Rock Hill, South Carolina 29730

Duke Power Company, Docket Nos. 50-369 and 50-370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of application for amendments: March 16, 1987, as supplemented April 24, 1987

Brief description of amendments: The amendments changed the Technical Specifications (TS) regarding functional testing of fuses and relocated the

method of testing low voltage circuit breakers from the surveillance requirement section to the TS Bases.

Date of issuance: May 25, 1989
Effective date: May 25, 1989
Amendment Nos.: 96 and 78
Facility Operating License Nos. NPF-9 and NPF-17: Amendments revised the Technical Specifications.
Date of initial notice in **Federal Register:** March 8, 1989 (54 FR 9916). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 25, 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

Duquesne Light Company, Docket Nos. 50-334 and 50-412, Beaver Valley Power Station, Unit Nos. 1 and 2, Shippingport, Pennsylvania

Date of application for amendments: January 5, 1989
Brief description of amendments: The amendments revise Specification 3/4.1.3.1 regarding movable control assemblies limiting condition for operation to: (1) permit continued operation if one or more control rods are inoperable but trippable, and (2) make several administrative changes or corrections.
Date of issuance: May 31, 1989
Effective date: May 31, 1989
Amendment No.: 141 for Unit 1; 17 for Unit 2.
Facility Operating License Nos. DPR-66 and NPF-73. Amendments revised the Technical Specifications.
Date of initial notice in **Federal Register:** February 22, 1989 (54 FR 7633). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 31, 1989.
No significant hazards consideration comments received: No
Local Public Document Room location: B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001.

Florida Power Corporation, et al., Docket No. 50-302, Crystal River Unit No. 3 Nuclear Generating Plant, Citrus County, Florida

Date of applications for amendment: March 31, 1983, as supplemented June 22, 1983, and December 31, 1984, as superseded April 25, 1988 and revised November 28, 1988.
Brief description of amendment: This amendment removes Table 3.6.1, Containment Isolation Valves, from the TS and relocates it to the FSAR. References to Table 3.6.1 in other TS are also removed. In addition, the amendment clarifies the requirement for stroke retest of valves following maintenance and adds surveillances which ensure that the isolation time of each power-operated valve is within its approved limits and that all purge isolation valves are verified shut at least once every 31 days when in Modes 1, 2, 3, or 4.
Date of issuance: May 22, 1989
Effective date: May 22, 1989
Amendment No.: 114
Facility Operating License No. DPR-72. Amendment revised the Technical Specifications.
Date of initial notice in **Federal Register:** December 21, 1983 (48 FR 56504), and November 30, 1988 (53 FR 48330). The November 28, 1988 letter provided clarifying information which did not alter the staff's initial determination of no significant hazards considerations. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 22, 1989.
No significant hazards consideration comments received: No.
Local Public Document Room Location: Crystal River Public Library, 668 N.W. First Avenue, Crystal River, Florida 32629

Florida Power Corporation, et al., Docket No. 50-302, Crystal River Unit No. 3 Nuclear Generating Plant, Citrus County, Florida

Date of application for amendment: June 22, 1983, as superseded April 25, 1988 and clarified March 31, 1989
Brief description of amendment: The amendment adds operability, action and surveillance requirements for the chlorine and sulfur dioxide toxic gas detection systems.
Date of issuance: May 30, 1989
Effective date: May 30, 1989
Amendment No.: 115
Facility Operating License No. DPR-72. Amendment revised the Technical Specifications.
Date of initial notice in **Federal Register:** September 7, 1988 (53 FR 34604). The March 31, 1989 letter provided clarifying information which did not change the staff's proposed no significant hazards consideration determination. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 30, 1989.
No significant hazards consideration comments received: No.
Local Public Document Room Location: Crystal River Public Library, 668 N.W. First Avenue, Crystal River, Florida 32629

Florida Power Corporation, et al., Docket No. 50-302, Crystal River Unit No. 3 Nuclear Generating Plant, Citrus County, Florida

Date of application for amendment: March 31, 1983, as supplemented June 22, 1983.
Brief description of amendment: This amendment provides TS for a reactor building high radiation monitor, a reactor building wide-range pressure monitor, and a reactor building flood level monitor. These changes are made in response to NUREG-0737, Item II.F.1.1.
Date of issuance: May 30, 1989
Effective date: May 30, 1989
Amendment No.: 116
Facility Operating License No. DPR-72. Amendment revised the Technical Specifications.
Date of initial notice in **Federal Register:** December 21, 1983 (48 FR 54504). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 30, 1989.
No significant hazards consideration comments received: No.
Local Public Document Room Location: Crystal River Public Library, 668 N.W. First Avenue, Crystal River, Florida 32629

Florida Power Corporation, et al., Docket No. 50-302, Crystal River Unit No. 3 Nuclear Generating Plant, Citrus County, Florida

Date of application for amendment: February 16, 1984
Brief description of amendment: This amendment provides additional requirements for decay heat removal redundancy in the Crystal River 3 TS.
Date of issuance: May 31, 1989
Effective date: May 31, 1989
Amendment No.: 117
Facility Operating License No. DPR-72. Amendment revised the Technical Specifications.
Date of initial notice in **Federal Register:** April 25, 1984 (49 FR 17859). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 31, 1989.
No significant hazards consideration comments received: No.
Local Public Document Room Location: Crystal River Public Library, 668 N.W. First Avenue, Crystal River, Florida 32629

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket No. 50-321, Edwin I. Hatch Nuclear Plant, Unit 1, Appling County, Georgia

Date of application for amendment: May 4, 1984, as amended September 12, 1984, August 19, 1987 and May 16, 1989.

Brief description of amendment: The amendment modified the Technical Specifications to change the definition of Operable.

Date of issuance: May 25, 1989

Effective date: May 25, 1989

Amendment No.: 162

Facility Operating License No. DPR-57. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** October 7, 1987 (52 FR 37545). Because the May 16, 1989 submittal clarified certain aspects of the original request, the substance of the changes noticed in the **Federal Register** and the proposed no significant hazards determination were not affected. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 25, 1989.

No significant hazards consideration comments received: No.

Local Public Document Room location: Appling County Public Library, 301 City Hall Drive, Baxley, Georgia 31513.

GPU Nuclear Corporation, et al., Docket No. 50-219, Oyster Creek Nuclear Generating Station, Ocean County, New Jersey

Date of application for amendment: March 17, 1987

Brief description of amendment: The amendment revises Section 3.3, Reactor Coolant, of the Appendix A Technical Specifications regarding the requirements of Generic Letter 84-11. Specifically, the amendment limits the reactor coolant leakage system to a 2 gpm increase in unidentified leakage rate within any 24 hour period while operating at steady state power.

Date of Issuance: May 23, 1989

Effective date: May 23, 1989

Amendment No.: 133

Provisional Operating License No. DPR-16. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** May 20, 1987 (52 FR 18980). The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated May 23, 1989.

No significant hazards consideration comments received: No.

Local Public Document Room location: Ocean County Library, Reference Department, 101 Washington Street, Toms River, New Jersey 08753.

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 application for amendments: May 28, 1987

Brief description of amendments: The amendments will modify the Engineered Safeguards Features (ESF) and Storage Pool Ventilation System Technical Specifications (3/4.7.6.1 and 3/4.9.12, respectively). The proposed amendments will update the licensee's ventilation system testing standards and clarify several aspects of system operation. In addition, the amendment would also make several editorial and typographical changes.

Date of issuance: May 19, 1989

Effective date: May 19, 1989

Amendments Nos.: 124, 111

Facility Operating Licenses Nos. DPR-58 and DPR-74. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 15, 1987 (52 FR 26588). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 19, 1989.

No significant hazards consideration comments received: No.

Local Public Document Room location: Maude Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

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 application for amendments: January 16, 1987 and supplemented on June 25, September 28, and November 25, 1987, October 31, 1988, and January 24, March 23, and April 6, 1989.

Brief description of amendments: Letters from Indiana Michigan Power Company (the licensee) dated September 28, 1984 and April 24, 1985 for the D. C. Cook Nuclear Power Plant, Units 1 & 2 established initial groundwork addressing concerns regarding diesel generator reliability in Generic Letter 84-15. In a letter dated January 16, 1987, the licensee submitted a Technical Specifications (TSs) change request attempting to more closely reflect the Standard Technical Specifications (STS) enclosed in Generic Letter 84-15. Additional information and improved TSs are included in letters dated June 25, and September 28, 1987. A letter dated November 25, 1987, requests TS changes to two specific portions of the original submittal concerning diesel generator fuel oil surveillance testing and the ten year diesel generator fuel oil storage tank cleaning. Additional information on the ten year diesel generator fuel storage tank cleaning is contained in a letter dated January 24, 1989. The portions of the TSs submittal dated January 16, 1987, concerning simulated load testing of the station batteries and N-train batteries were resubmitted in a letter dated April 29, 1988, to ensure timely compliance with an INPO commitment and to reduce outage time and were issued as Amendment Nos. 123 and 110 to Facility Operating License Nos. DPR-58 and DPR-74, respectively. A letter dated March 23, 1989, provides clarified and corrected TS pages for the 10-year tank cleaning and inspection portion. The licensee provided corrected TSs covering diesel generator surveillance testing in a letter dated April 6, 1989.

Date of issuance: May 31, 1989

Effective date: May 31, 1989

Amendments Nos.: 125 and 112

Facility Operating Licenses Nos. DPR-58 and DPR-74. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 26, 1987 (52 FR 5857), July 29, 1987 (52 FR 28380) and December 30, 1987 (52 FR 49227). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 31, 1989.

No significant hazards consideration comments received: No.

Local Public Document Room location: Maude Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Iowa Electric Light and Power Company, Docket No. 50-331, Duane Arnold Energy, Center, Linn County, Iowa

Date of application for amendment: October 13, 1986

Brief description of amendment: The amendment revised the Duane Arnold Energy Center Technical Specifications to conform to the Standard Technical Specifications for Boiling Water Reactors and to the ASME Boiler and Pressure Vessel Code requirements for Inservice Testing of pumps and valves. The surveillance intervals for certain pumps and valves were revised to reflect the use of the 1980 Edition (Winter 1981 Addendum) as required by 10 CFR 50.55a(g)(4)(ii).

Date of issuance: June 1, 1989

Effective date: June 1, 1989

Amendment No.: 160

Facility Operating License No. DPR-49. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** April 6, 1989 (54 FR 13966). The

Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 1, 1989.

No significant hazards consideration comments received: No.

Local Public Document Room location: Cedar Rapids Public Library, 500 First Street, S. E., Cedar Rapids, Iowa 52401.

Nebraska Public Power District, Docket No. 50-298, Cooper Nuclear Station, Nemaha County, Nebraska

Date of amendment request: January 27, 1989

Brief description of amendment: The amendment changed the Technical Specifications to specify revised Limiting Conditions for Operation and Surveillance requirements for the 250 Volt DC batteries and battery chargers.

Date of issuance: May 24, 1989

Effective date: May 24, 1989

Amendment No.: 130

Facility Operating License No. DPR-46. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** April 19, 1989 (54 FR 15830). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 24, 1989.

No siginificant hazards consideration comments received: No.

Local Public Document Room location: Auburn Public Library, 118 15th Street, Auburn, Nebraska 68305

Niagara Mohawk Power Corporation, Docket No. 50-220, Nine Mile Point Nuclear Station, Unit No. 1, Oswego County, New York

Date of application for amendment: January 13, 1989

Brief description of amendment: This amendment revises Sections 3.1.4 and 4.1.4 Core Spray System; Section 3.3.7, Containment Spray; and the associated Bases for Sections 3.1.4, 4.1.4, and 3.3.7. In addition, the proposed amendment provides new limiting conditions for operation for the Core Spray system in the cold shutdown and refueling conditions and with the suppression pool inoperable.

Date of issuance: May 16, 1989

Effective date: May 16, 1989

Amendment No.: 105

Facility Operating License No. DPR-63: Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register:** February 24, 1989 (54 FR 8030). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 16, 1989

No significant hazards consideration comments received: No

Local Public Document Room location: Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

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 application for amendment: March 14, 1989

Brief description of amendment: The amendment changes the Technical Specifications (TS) as follows: (1) TS 4.3.4.2, "Turbine Overspeed Protection," is 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," is supplemented by adding item (j) which requires 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 is added to the applicability for TS 3.3.4 to state that the Turbine Overspeed Protection System need not be operable "... in MODE 2 and 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."

Date of issuance: May 23, 1989

Effective date: May 23, 1989

Amendment No.: 34

Facility Operating License No. NPF-49. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** April 19, 1989 (54 FR 15832). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 23, 1989.

No significant hazards consideration comments received: No.

Local Public Document Room location: Waterford Public Library, 49 Rope Ferry Road, Waterford, Connecticut 06385.

Northeast Nuclear Energy Company, et al., Docket No. 50-423, Millstone Nuclear Power Station, Unit No. 3, New London County, Connecticut

Date of application for amendment: March 10, 1989

Brief description of amendment: The amendment changes Facility Operating License No. NPF-49, Paragraph 1.A., to delete the City of Burlington, Vermont, as a licensee for Millstone Unit 3.

Date of issuance: May 25, 1989

Effective date: May 25, 1989

Amendment No.: 35

Facility Operating License No. NPF-49. Amendment revised paragraph 1.A of the Facility Operating License.

Date of initial notice in **Federal Register:** April 19, 1989 (54 FR 15831). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 25, 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: April 13, 1984 as supplemented by letters dated August 17, 1984; August 30 and November 27, 1985; February 19, 1987; June 6 and July 5, 1988.

Brief description of amendment: This amendment revises the Technical Specifications to add Limiting Conditions for Operation and Surveillance Requirements for installed control room habitability equipment in accordance with the provisions of TMI Action Plan Item III.D.3.4 (NUREG-0737).

Date of issuance: May 30, 1989

Effective date: May 30, 1989

Amendment No.: 65

Facility Operating License No. DPR-22. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** May 23, 1984 (49 FR 21833) and September 28, 1984 (49 FR 38404). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 30, 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.

Pacific Gas and Electric Company, Docket Nos. 50-275 and 50-323, Diablo Canyon Nuclear Power Plant, Units 1 and 2, San Luis Obispo County, California

Date of application for amendments: December 19, 1988, as supplemented by letter dated March 23, 1989 (Reference LAR 88-10)

Brief description of amendments: The amendments revised the Technical Specifications to add operability and surveillance requirements for the Undervoltage Trip and Shunt Trip Attachments for compliance with the

guidance contained in Generic Letter 85-09.

Date of issuance: May 23, 1989.
Effective date: May 23, 1989.
Amendment Nos.: 38 and 37.
Facility Operating License Nos. DPR-80 and DPR-82: Amendments changed the Technical Specifications.
Date of initial notice in **Federal Register:** April 19, 1989 (54 FR 15833). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 23, 1989.
No significant hazards consideration comments received: No.
Local Public Document Room location: California Polytechnic State University Library, Government Documents and Maps Department, San Luis Obispo, California 93407.

Pennsylvania Power and Light Company, Docket No. 50-387 Susquehanna Steam Electric Station, Unit 1, Luzerne County, Pennsylvania

Date of application for amendment: February 24, 1989
Brief description of amendment: This amendment revised the Technical Specifications supporting modifications to eliminate the steam condensing of the residual heat removal system operation.
Date of issuance: May 22, 1989
Effective date: As of the date of issuance, to be implemented prior to startup, following the Unit 1 fourth refueling and inspection outage, expected to occur on June 2, 1989.
Amendment No.: 91
Facility Operating License No. NPF-14: This amendment revised the Technical Specifications.
Date of initial notice in **Federal Register:** April 19, 1989 (54 FR 15834). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 22, 1989.
No significant hazards consideration comments received: No
Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

Philadelphia Electric Company, Docket No. 50-352, Limerick Generating Station, Unit 1, Montgomery County, Pennsylvania

Date of application for amendment: August 19, 1986
Brief description of amendment: The amendment revised the Technical Specifications to change the reporting requirements for iodine spiking from a short term to an item to be included in the Annual Report. The amendment also eliminates the existing requirement to shut down a plant if coolant iodine activity limits are exceeded for 800 hours in a 12 month period.
Date of issuance: May 19, 1989
Effective date: May 19, 1989
Amendment No.: 20
Facility Operating License No. NPF-39. This amendment revised the Technical Specifications.
Date of initial notice in **Federal Register:** March 12, 1987 (52 FR 7691). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 19, 1989.
No significant hazards consideration comments received: Yes, however, the requests for hearing were considered by an Atomic Safety and Licensing Board and the amendment proceeding terminated on May 5, 1988. LBP-88-12, 27 NRC 495(1988), *aff'd,* ALAB-897, 28 NRC 33(1988).
Local Public Document Room location: Pottstown Public Library, 500 High Street, Pottstown, Pennsylvania 19464.

Philadelphia Electric Company, Docket No. 50-352, Limerick Generating Station, Unit 1, Montgomery County, Pennsylvania

Date of application for amendment: January 23, 1989
Brief description of amendment: The amendment revises the Technical Specifications to permit use of filters with an increased pore size when periodically testing the amount of particulate contamination in the diesel generator fuel oil.
Date of issuance: May 31, 1989
Effective date: May 31, 1989
Amendment No.: 21
Facility Operating License No. NPF-39. This amendment revised the Technical Specifications.
Date of initial notice in **Federal Register:** February 22, 1989 (54 FR 7641). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 31, 1989.
No significant hazards consideration comments received: No
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 application for amendments: October 17, 1986
Brief description of amendments: These amendments revised the Environmental Technical Specifications and Bases contained in Appendix B to the Operating Licenses Nos. DPR-44 and DPR-56 to reflect the issuance by the Commonwealth of Pennsylvania of National Pollution Discharge Elimination System (NPDES) Permit PA-0009733 on September 27, 1985.
Date of issuance: May 31, 1989
Effective date: May 31, 1989
Amendments Nos.: 146 and 148
Facility Operating License Nos. DPR-44 and DPR-56: Amendments revised the Technical Specifications.
Date of initial notice in **Federal Register:** April 27, 1989 (54 FR 18179). The Commission's related evaluation of the amendments is contained in the Commission's letter dated May 31, 1989.
No significant hazards consideration comments received: No.
Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania 17126.

Portland General Electric Company, Docket No. 50-344, Trojan Nuclear Plant, Columbia County, Oregon

Date of application for amendment: September 30, 1986, as supplemented November 16, 1987 and April 14, 1988
Brief description of amendment: The amendment revises Technical Specifications 3/4.3.3.6 and 3/4.7.6.1, "Chlorine Detection Systems," and "Control Room Emergency Ventilation System," respectively, concerning control room habiability.
Date of issuance: May 15, 1989
Effective date: May 15, 1989
Amendment No.: 152
Facilities Operating License No. NPF-1: Amendment revised the Technical Specifications.
Date of initial notice in **Federal Register:** May 6, 1987 (52 FR 16951). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 15, 1989.
No Significant hazards consideration comments recieved: No.
Local Public Document Room location: Portland State University Library, 731 S. W. Harrison St., Portland Oregon 97207
NRC Project Director: George W. Knighton

Portland General Electric Company et al., Docket No. 50-344, Trojan Nuclear Plant, Columbia County, Oregon

Date of amendment request: November 20, 1987, as supplemented May 27 and August 12, 1988.
Description of amendment request: The amendment permits the use of

upgraded fuel assemblies which incorporate features of Westinghouse Vantage 5 fuel assemblies, and allows extended fuel brunup and higher nuclear peaking factors.

Date of issuance: May 24, 1989
Effective date: May 24, 1989
Amendment No.: 153
Facilities Operating License No. NPF-1: Amendment revised the Technical Specifications.
Date of initial notice in **Federal Register:** February 24, 1988 (53 FR 5495). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 24, 1989.
No significant hazards consideration comments received: No.
Local Public Document Room location: Portland State University Library, 731 S.W. Harrison Street, Portland, Oregon 97207.
NRC Project Director: George W. Knighton

Power Authority of the State of New York, Docket No. 50-333, James A. FitzPatrick Nuclear Power Plant, Oswego County, New York

Date of application for amendment: May 16, 1989
Brief description of amendment: The amendment reduces the allowable outage times for the Main Control Room Emergency Ventilation System to 14 days with one filter train inoperable and three days with both trains inoperable.
Date of issuance: May 31, 1989
Effective date: May 31, 1989
Amendment No.: 129
Facility Operating License No. DPR-59: Amendment revised the Technical Specification.
Date of initial notice in **Federal Register:** April 27, 1989 (54 FR 18182). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 31, 1989.
No significant hazards consideration comments received: No.
Local Public Document Room location: Penfield Library, State University College of Oswego, Oswego, New York.
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 County, New York

Date of application for amendment: December 6, 1984, as supplemented and superseded (in part) by letters dated October 18, 1985 and October 20, 1986.
Brief description of amendment: The amendment incorporates changes in response to the acceptance criteria and guidance of Generic Letters 83-02 and 83-36, "NUREG-0737 Technical Specifications." The following items are addressed by this amendments: Limit Overtime (I.A.1.3), Radiation Signal on Purge Valves (II.E.4.2.7), RCIC Restart and RCIC Suction (II.K.3.13 and II.K.3.22), Penetrations (II.E.4.1), Report Safety and Relief Valve Failures and Challenges (II.K.3.3), Post Accident Sampling (II.B.3), Noble Gas Effluent Monitors (II.F.1.1), Sampling and Analysis of Plant Effluents (II.F.1.2), Containment High-Range Monitor (II.F.1.3), Containment Pressure Monitor (II.F.1.4), Containment Water Level Monitor (II.F.1.5), and Containment Hydrogen Monitor (II.F.1.6).
Date of issuance: May 31, 1989
Effective date: May 31, 1989
Amendment No.: 130
Facility Operating License No. DPR-59: Amendment revised the Technical Specification.
Date of initial notice in **Federal Register:** November 19, 1987 (51 FR 41866). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 31, 1989.
No significant hazards consideration comments received: No.
Local Public Document Room location: Penfield Library, State University College of Oswego, Oswego, New York.
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 County, New York

Date of application for amendment: April 10, 1986 and supplemented August 5, 1986
Brief description of amendment: The amendment deletes the requirement to disconnect an emergency bus from its normal power source and connect it to its reserve power source when the associated Emergency Diesel Generator system is inoperable.
Date of issuance: June 1, 1989
Effective date: June 1, 1989
Amendment No.: 131
Facility Operating License No. DPR-59: Amendment revised the Technical Specification.
Date of initial notice in **Federal Register:** September 24, 1986 (51 FR 33957). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 1, 1989.
No significant hazards consideration comments received: No.
Local Public Document Room location: Penfield Library, State University College of Oswego, Oswego, New York.
NRC Project Director: Robert A. Capra

Public Service Electric & Gas Company, Docket Nos. 50-272 and 50-311, Salem Generating Station, Unit Nos. 1 and 2, Salem County, New Jersey

Date of application for amendments: October 17, 1985 and supplemented December 18, 1986
Brief description of amendments: The amendments changed the Technical Specifications pertaining to the reactor trip system instrumentation and surveillance.
Date of issuance: May 31, 1989
Effective date: Units 1 and 2, effective as of the date of issuance to be implemented within 30 days of the date of issuance.
Amendment Nos.: 97 and 74
Facility Operating License Nos. DPR-70 and DPR-75. These amendments revised the Technical Specifications.
Date of initial notice in **Federal Register:** February 12, 1986 (51 FR 5277) and April 27, 1989 (54 FR 28183). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 31, 1989.
No significant hazards consideration comments received: No
Local Public Document Room location: Salem Free Public Library, 112 West Broadway, Salem, New Jersey 08079.

Rochester Gas and Electric Corporation, Docket No. 50-244, R. E. Ginna Nuclear Power Plant, Wayne County, New York

Date of application for amendment: 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.
Date of issuance: May 22, 1989
Effective date: Date of issuance.
Amendment No.: 36
Facility Operating License No. DPR-18: Amendment revised the Technical Specifications.
Date of initial notice in **Federal Register:** April 19, 1989 (54 FR 15837). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 22, 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: October 14, 1985 as supplemented February 13, 1986

Brief description of amendment: The amendment approved use of the Babcock and Wilcox Integrated Reactor Vessel Material Surveillance Program, withdrew the Exemption to Appendix H of 10 CFR Part 50 granted January 10, 1983, and deleted all references to current reactor vessel material surveillance requirements.

Date of issuance: May 16, 1989

Effective date: May 16, 1989

Amendment No.: 104

Facility Operating License No. DPR-54: Amendment revised the License and Technical Specifications.

Date of initial notice in **Federal Register:** October 8, 1986 (51 FR 36103). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 16, 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.

Sacramento Municipal Utility District, Docket No. 50-312, Rancho Seco Nuclear Generating Station, Sacramento County, California

Date of application for amendment: October 7, 1988, as supplemented November 18, 1988, and March 27, 1989.

Brief description of amendment: The amendment clarifies the operational mode applicability of TS 3.4 and the definition of auxiliary feedwater (AFW) train, revises the surveillance requirements and frequency of verifying the AFW System flow path, and revises the surveillance requirement for AFW pump testing.

Date of issuance: May 23, 1989

Effective date: May 23, 1989

Amendment No.: 105

Facility Operating License No. DPR-54: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** April 19, 1989 (54 FR 15837). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 23, 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.

Sacramento Municipal Utility District, Docket No. 50-312, Rancho Seco Nuclear Generating Station, Sacramento County, California

Date of application for amendment: March 19, 1985, as supplemented by letters dated June 17 and November 25, 1985

Brief description of amendment: This amendment revised Technical Specification 4.17, "Steam Generators," to provide for a more extensive inspection of steam generator tubes by defining special tube areas to complete 100% inspection where degradation is expected. Normal random sampling inspection of tubes will be done on other areas of the steam generator. This amendment also incorporated miscellaneous changes to paragraph numbers, section titles, and phrases for consistency.

In addition, this amendment revised the reporting requirements for the inspection results to make the reporting requirements consistent with 10 CFR 50.72(b)(2) and extended the deadline for reports on tube plugging to 30 days following each inservice inspection.

Date of issuance: May 23, 1989

Effective date: May 23, 1989

Amendment No.: 106

Facility Operating License No. DPR-54: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** June 18, 1986 (51 FR 22242). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 23, 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.

South Carolina Electric & Gas Company, South Carolina Public Service Authority, Docket No. 50-395, Virgil C. Summer Nuclear Station, Unit No. 1, Fairfield County, South Carolina

Date of application for amendment: June 10, 1985, as supplemented December 6, 1985 and May 16, July 14, July 28, and November 18, 1988 and April 5, 1989.

Brief description of amendment: The amendment to Virgil C. Summer Nuclear Station Technical Specifications (TS) would reduce the number and severity of starts of the emergency diesel generators, thereby decreasing engine wear and increasing reliability, and restructures the action and surveillance statements for clarity and usability.

Date of issuance: May 30, 1989

Effective date: May 30, 1989

Amendment No.: 77

Facility Operating License No. NPF-12. Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register:** July 17, 1985 (50 FR 29016). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 30, 1989.

No significant hazards consideration comments received: No

Local Public Document Room location: Fairfield County Library, Garden and Washington Streets, Winnsboro, South Carolina 29180.

Southern California Edison Company, et al., Docket Nos. 50-361 and 50-362, San Onofre Nuclear Generating Station, Units 2 and 3, San Diego County, California

Date of application for amendments: August 26, 1986, as supplemented November 21, 1986 and February 1, 1988

Brief description of amendments: The amendments add license conditions which require implementation of an integrated implementation schedule program plan for scheduling all capital modifications.

Date of issuance: May 15, 1989

Effective date: May 15, 1989

Amendment Nos.: 72 and 60

Facility Operating License Nos. NPF-10 and NPF-15: Amendments changed the licenses.

Date of initial notice in **Federal Register:** April 22, 1987 (52 FR 13349). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 15, 1989.

No significant hazards consideration comments received: No.

Local Public Document Room location: General Library, University of California, P.O. Box 19557, Irvine, California 92713.

Southern California Edison Company, et al., Docket Nos. 50-361 and 50-362, San Onofre Nuclear Generating Station, Units 2 and 3, San Diego County, California

Date of application for amendments: April 26, October 11 and October 24, 1988, as supplemented March 20, 1989.

Brief description of amendments: The amendments revise the following Technical Specifications to increase the interval for the 18 month surveillance tests to at least once per refueling interval, which is defined as 24 months: 3/4.1.2.2, "Boration Systems, Flow Paths-Operating," 3/4.1.3.4, "CEA Drop Time," 3/4.5.1, "Safety Injection Tanks," 3/4.5.2, "ECCS Subsystems - T_{avg}

Greater Than or Equal to 350° F," 3/4.6.2.1, "Containment Spray System," 3/4.6.2.3, "Containment Cooling System," 3/4.6.3, "Containment Isolation Valves," and 3/4.6.4.2, "Electric Hydrogen Recombiners."

Date of issuance: May 31, 1989
Effective date: May 31, 1989
Amendment Nos.: 73, 61
Facility Operating License Nos. NPF-10 and NPF-15: Amendments changed the Technical Specifications.
Date of initial notice in **Federal Register:** March 8, 1989 (54 FR 9929-30 and 54 FR 9932-33) and March 22, 1989 (54 FR 11842). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 31, 1989
No significant hazards consideration comments received: No.
Local Public Document Room location: General Library, University of California, P.O. Box 19557, Irvine, California 92713.

Tennessee Valley Authority, Dockets Nos. 50-529, 50-260 and 50-296, Browns Ferry Nuclear Plant, Units 1, 2 and 3, Limestone County, Alabama

Brief description of amendments: The proposed change adds requirements 1.0.MM.6 per guidance of Generic Letter 88-01.
Date of issuance: May 19, 1989
Effective date: May 19, 1989
Amendments Nos.: 166, 165, 137
Facility Operating Licenses Nos. DPR-33, DPR-52 and DPR-68: Amendments revised the Technical Specifications.
Date of initial notice in **Federal Register:** February 1, 1989 (54 FR 5175). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated: May 19, 1989
No significant hazards consideration comments received: No.
Local Public Document Room location: Athens Public Library, South Street, Athens, Alabama 35611.

Tennessee Valley Authority, Docket Nos. 50-259, 50-260 and 50-296, Browns Ferry Nuclear Plant, Units 1, 2 and 3, Limestone County, Alabama

Date of application for amendments: October 24, 1988 as supplemented by letter dated March 24, 1989. (TS 258)
Brief description of amendments: The amendments change the expiration date for the Browns Ferry Nuclear Plant (BFN) Operating Licenses DPR-33 (Unit 1) from May 10, 2007 to December 20, 2013, for BFN Operating License DPR-52 (Unit 2) from May 10, 2007 to June 28, 2014, and for BFN Operating License DPR-68 (Unit 3) from July 31, 2008 to July 2, 2016. The supplemental information supplied in the March 24, 1989 letter did not change the substance of the Notice of Consideration of an amendment issued in the **Federal Register** on TVA's application for extension of operating license dates.
Date of issuance: May 19, 1989
Effective date: May 19, 1989
Amendments Nos.: 167, 166, 138
Facility Operating Licenses Nos. DPR-33, DPR-52 and DPR-68: Amendments revised the license for each facility.
Date of initial notice in **Federal Register:** January 11, 1989 (54 FR 1024). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 19, 1989.
No significant hazards consideration comments received: No.
Local Public Document Room location: Athens Public Library, South Street, Athens, Alabama 35611.

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 25, 1984 (TS 52)
Brief description of amendments: These amendments modify Section 3/4.4, Reactor Coolant System, of the Sequoyah Nuclear Plant, Units 1 and 2, Technical Specifications (TS). The changes add limiting conditions for operation (LCO), action statements if the LCO is not met and surveillance requirements for the reactor coolant system vents (RCSV). These are TS 3/4.4.11. A section on the RCSV is also being added to the Bases of the TS.
The proposed changes on the RCSV paths in TVA's application dated December 9, 1985 duplicated the changes in its application dated January 25, 1984. This latter application also included proposed TS changes for the following TMI Action Plan monitors: high range noble gas effluent monitors, containment area high range radiation monitors, containment pressure monitor and the instrumentation for detection of inadequate core cooling. These are TMI Action Plan items II.F.1.1, II.F.1.3, II.F.1.4 and II.F.2., respectively. Also included were proposed changes to the requirements for diesel generator testing to meet the NRC Generic Letter 83-30 dated July 25, 1983.
For the high range noble gas effluent monitors and containment area radiation monitors, the staff approved changes to the TS in its letter dated April 28, 1989. For the containment pressure monitor and the instrumentation for detection of inadequate core cooling, the staff approved changes to the TS in its letter dated September 16, 1986. For the diesel generator testing requirements, the staff approved changes to the TS in its letter dated October 28, 1986.
The amendments described above complete the staff's review of TVA application dated January 25, 1984.
Date of issuance: June 1, 1989
Effective date: June 1, 1989
Amendment Nos.: 116, 106
Facility Operating Licenses Nos. DPR-77 and DPR-79. Amendments revised the Technical Specifications.
Date of initial notice in **Federal Register:** September 28, 1984 (49 FR 38410). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 1, 1989.
No significant hazards consideration comments received: No.
Local Public Document Room location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

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
Brief description of amendment: The amendment deleted in its entirety the Appendix B "Environmental Technical Specifications" and those portions of License Conditions 2.C.(2) and 2.F.(1) which referred to the Environmental Technical Specifications.
Date of issuance: May 18, 1989
Effective date: May 18, 1989
Amendment No.: 133
Facility Operating License No. NPF-3. Amendment revised the Technical Specifications.
Date of initial notice in **Federal Register:** April 19, 1989 (54 FR 15839). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 18, 1989.
No significant hazards consideration comments received: No.
Local Public Document Room location: University of Toledo Library, Documents Department, 2801 Bancroft Avenue, Toledo, Ohio 43606.

Union Electric Company, Docket No. 50-483, Callaway Plant, Unit 1, Callaway County, Missouri

Date of application for amendment: September 18, 1985 as supplemented by letters dated March 23 and May 9, 1989.
Brief description of amendment: The amendment revised Section 3/4.6.1.6, Containment Vessel Structural Integrity, of the Callaway Technical

Specifications. The amendment provided both clarification and relaxation of some of the existing Surveillance Requirements as well as adding provisions which the staff found vital for monitoring the integrity of prestressed concrete containments. In addition, modifications were made to some of the reporting requirements and action statements found within the Limiting Condition for Operation.

Date of issuance: May 24, 1989
Effective date: May 24, 1989
Amendment No.: 46
Facility Operating License No. NPF-30. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** December 4, 1985 (50 FR 49794). The March 23 and May 9, 1989 submittals provided additional clarifying information and did not change the proposed finding of the initial notice. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 24, 1989.

No significant hazards consideration comments received: No.

Local Public Document Room location: Callaway County Public Library, 710 Court Street, Fulton, Missouri 65251 and the John M. Olin Library, Washington University, Skinker and Lindell Boulevards, St. Louis, Missouri 63130.

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: March 30, 1988

Brief description of amendments: These amendments change TS Section 6.5.B.7, "Station Operating Records" by clarifying the requirement to retain photographs of scope traces of welds which are tested by ultrasonic examination and photographs of surface welds inspected by a visual or surface examination for the life of the plant.

Date of issuance: May 18, 1989
Effective date: May 18, 1989
Amendment Nos.: 127 and 127
Facility Operating License Nos. DPR-32 and DPR-37: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** May 18, 1988 (53 FR 17796). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 18, 1989.

No significant hazards consideration comments received: No.

Local Public Document Room location: Swem Library, College of William and Mary, Williamsburg, Virginia 23185

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: February 14, 1979, as supplemented September 21, 1982, August 30, 1985, April 11, 1988 and May 12, 1989.

Brief description of amendments: These amendments remove obsolete inservice inspection and testing requirements and replaces them with more up-to-date NRC-approved requirements specified in 10 CFR 50.55a(g).

Date of issuance: May 24, 1989
Effective date: May 24, 1989
Amendment Nos.: 128 and 128
Facility Operating License Nos. DPR-32 and DPR-37: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 23, 1983 (48 FR 38428) and October 23, 1985 (50 FR 43036).

The April 11, 1988 and May 12, 1989 letters provided supplemental information which did not alter the staff's initial determination of no significant hazards considerations. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 24, 1989.

No significant hazards consideration comments received: No.

Local Public Document Room location: Swem Library, College of William and Mary, Williamsburg, Virginia 23185

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: March 20, 1989

Brief description of amendments: These amendments change Technical Specification Sections 3.14 and 3.23 by imposing additional system operating restrictions on the Main Control Room and Emergency Switchgear Room Air Conditioning System.

Date of issuance: May 30, 1989
Effective date: May 30, 1989
Amendment Nos.: 129 and 129
Facility Operating License Nos. DPR-32 and DPR-37: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** April 5, 1989 (54 FR 13770). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 30, 1989.

No significant hazards consideration comments received: No.

Local Public Document Room location: Swem Library, College of William and Mary, Williamsburg, Virginia 23185

Wisconsin Public Service Corporation, Docket No. 50-305, Kewaunee Nuclear Power Plant, Kewaunee County, Wisconsin

Date of application for amendment: May 23, 1986

Brief description of amendment: The amendment changed the expiration date of the license from August 6, 2008 to December 21, 2013.

Date of issuance: May 26, 1989
Effective date: May 26, 1989
Amendment No.: 82
Facility Operating License No. NPF-43. Amendment revised the License.

Date of initial notice in **Federal Register:** April 25, 1989 (54 FR 17849). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 26, 1989 and the environmental assessment dated May 11, 1989 (54 FR 21510).

No significant hazards consideration comments received: No.

Local Public Document Room location: University of Wisconsin Library Learning Center, 2420 Nicolet Drive, Green Bay, Wisconsin 54301.

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

Date of amendment request: December 6, 1985 and amended March 29 and May 10, 1989.

Brief description of amendment: The amendment revised Section 3/4.6.1.6, Containment Vessel Structural Integrity, of the Wolf Creek Generating Station Technical Specifications. The amendment provided both clarification and relaxation of some of the existing Surveillance Requirements as well as added provisions which the staff found vital for monitoring the integrity of prestressed concrete containments. In addition, modifications were made to some of the reporting requirements and action statements found within the Limiting Condition for Operation.

Date of Issuance: May 24, 1989
Effective date: May 24, 1989
Amendment No.: 31
Facility Operating License No. NPF-42. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** January 15, 1986 (51 FR 1876). The March 29 and May 10, 1989 submittals 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 May 24, 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 July 14, 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).

Connecticut Yankee Atomic Power Company, Docket No. 50-213, Haddam Neck Plant, Middlesex County, Connecticut

Date of application for amendment: March 31, 1989 as supplemented May 25, 1989

Brief description of amendment: The amendment revises the one-time relaxation of the containment integrity Technical Specification granted in Amendment No. 112 to allow cleaning or replacement of the containment air fan motor heat exchangers while at power.

Date of Issuance: June 1, 1989

Effective date: June 1, 1989

Amendment No.: 117

Facility Operating License No. DPR-61. Amendment revised the Technical Specifications.

Public comments requested as to proposed no significant hazards consideration: Yes. Published in Federal Register May 12, 1989 (54 FR 20659). No comments were received.

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 Evaluated dated

Attorney for licensee: Gerald Garfield, Esquire, Day, Berry & Howard, Counselors at Law, City Place, Hartford, Connecticut 06103-3499.

Local Public Document Room location: Russell Library, 123 Broad Street, Middletown, Connecticut 06457.

NRC Project Director: John F. Stolz

Dated at Rockville, Maryland, this 5th day of June, 1989.

For the Nuclear Regulatory Commission

Steven A. Varga,

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

[Doc. 89-14004 Filed 6-13-89; 8:45 am]

BILLING CODE 7590-01-D

Draft Regulatory Guide; Issuance, Availability

The Nuclear Regulatory Commission has issued for public comment a draft of a new guide planned for its Regulatory Guide Series. This series has been developed to describe and make available to the public such information as methods acceptable to the NRC staff for implementing specific parts of the Commission's regulations, techniques used by the staff in evaluating specific problems or postulated accidents, and data needed by the staff in its review of applications for permits and licenses.

The draft guide, temporarily identified by its task number, DG-1003 (which should be mentioned in all correspondence concerning this draft guide), is entitled "Assuring the Availability of Funds for Decommissioning Nuclear Reactors" and is intended for Division 1, "Power Reactors." This guide is being developed to provide guidance to nuclear reactor licensees on methods acceptable to the NRC staff for the provision of funds for decommissioning reactors. It also provides guidance on the content and form of the funding methods.

This draft guide is being issued to involve the public in the early stages of the development of a regulatory position in this area. It has not received complete staff review and does not represent an official NRC staff position.

Public comments are being solicited on the guide, including any implementation schedule. Comments should be accompanied by supporting data. Written comments may be submitted to the Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Copies of comments received may be examined at the NRC Public Document Room, 2120 L Street, NW., Washington, DC. Comments will be most helpful if received by August 4, 1989.

Although a time limit is given for comments on these drafts, comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time.

Regulatory guides are available for inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC. Requests for single copies of draft guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Information Support Services. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland, this 1st day of June 1989.

For the Nuclear Regulatory Commission.

Guy A. Arlotto,

Director, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. 89-14112 Filed 6-13-89; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-289]

GPU Nuclear Corp. et al.; Withdrawal of Application for Amendment to Facility Operating License

The United States Nuclear Regulatory Commission (the Commission) has granted the request of GPU Nuclear Corporation (the licensee) to withdraw

its November 9, 1987 application for proposed amendment to Facility Operating License No. DPR–50 for Three Mile Island, Unit No. 1, located in Dauphin County, Pennsylvania.

The proposed amendment would have removed the Radiological Environmental Monitoring Program from the Technical Specifications. Subsequent to this request, the NRC issued specific guidance as Generic Letter No. 89–01 that makes submittal of a new request necessary.

The Commission has previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on January 13, 1988 (53 FR 828). However, by letter dated May 8, 1989, the licensee withdrew the proposed change.

For further details with respect to this action, see the application for amendment dated November 9, 1987, and the licensee's letter dated May 8, 1989, which withdrew the application for license amendment. The above documents are available for public inspection at the Commission's Public Document Room, the Gelman Building 2120 L Street, NW., Washington, DC, and the Government Publications Section of the State Library of Pennsylvania, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, Pennsylvania 17105.

Dated at Rockville, Maryland this 8th day of June 1989.

For the Nuclear Regulatory Commission.

Ronald W. Hernan,

Senior Project Manager, Project Directorate I–4, Division of Reactor Projects I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 89–14110 Filed 6–13–89; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–315 and 50–316]

Indiana Michigan Power Co.; Denial of Amendment to Facility Operating Licenses and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) has denied a request by Indiana Michigan Power Company, (licensee) for an amendment to Facility Operating License Nos. DPR–58 and DPR–74, issued to the licensee for operation of the D.C. Cook Nuclear Plant, Units Nos. 1 and 2, located in Berrian County, Michigan. Notice of Consideration of Issuance of this amendment was published in the **Federal Register** on December 22, 1987 (52 FR 48475).

The purpose of the licensee's amendment request was to revise the Technical Specifications to delete the requirement to measure the moderator temperature coefficient near the end of the fuel cycle.

The NRC staff has concluded that the licensee's request cannot be granted. The licensee was notified of the Commission's denial of the proposed change by letter dated June 8, 1989.

By July 14, 1989, the licensee may demand a hearing with respect to the denial described above. Any person whose interest may be affected by this proceeding may file a written petition for leave to intervene.

A request for hearing or 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.

A copy of any petitions 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, attorney for the licensee.

For further details with respect to this action, see (1) the application for amendment dated October 20, 1987 and (2) the Commission's letter to the licensee dated June 8, 1989.

These documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC and at the Maude Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085. A copy of Item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Document Control Desk.

Dated at Rockville, Maryland, this 8th day of May.

For the Nuclear Regulatory Commission.

Lawrence A. Yandell,

Acting Director, Project Directorate III–1, Division of Reactor Projects–III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 89–14111 Filed 6–13–89; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

Assessment of Current Rules for Determining the Country of Origin Under the "Buy American Act of 1933" as Amended; Public Hearing

AGENCY: Office of Federal Procurement Policy.

ACTION: Notice.

SUMMARY: The Office of Federal Procurement Policy (OFPP) is requesting comments on the reasonableness of the rules currently used to determine the origin of products procured by the Federal government for purposes of implementing the "Buy American Act of 1933" as amended (the Act). These comments should describe the current interpretation and application of these rules, as well as explore reasonable alternative "rules of origin," including one that requires determination to be made on the basis of total cost. All comments should be directed in writing to Donna Fossum, Deputy Associate Administrator, OFPP, 725 17th Street, NW. (NEOB), Room 9025, Washington, DC 20503, by July 28, 1989.

OFPP is holding a public hearing on this matter. Persons and organizations wishing to present views, ideas, suggestions, and alternatives to the current "rule of origin" are encouraged to attend this hearing. Persons and organizations with similar views are encouraged to select a common spokesperson for the presentation of their views. A written transcript will be made of this hearing for transmittal to Congress.

DATES: Recipt of Comments: Comments must be received on or before July 28, 1989. Public Hearing: A public hearing will be held on Friday, July 21, 1989, at 10:00 a.m. Person to Contact for Admission to Hearing: Persons wishing to attend and/or present statemetns at the public hearing must contact Ms. Brenda Harper at (202) 395–3300, prior to 3:30 p.m., July 19, 1989, to arrange for admittance to the New Executive Office Builidng (NEOB). Submission of Written Statements: Two copies of the written statements of those wishing to speak at this public hearing must be received by OFPP by 5:00 p.m., July 18, 1989. Length of Oral Statements: Oral statements presented at the public hearing will be limited to 10 minutes each.

ADDRESSES: Comments and statements should be submitted to Donna Fossum, Deputy Associate Administrator, OFPP,

725 17th Street NW., (NEOB), Room 9025, Washington, DC 20503.

The public hearing will be held in Room 2010, New Executive Office Building (NEOB), 725 17th Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Donna Fossum, (202) 395–3300.

SUPPLEMENTARY INFORMATION: The Buy American Act (the Act) was enacted in 1933 to ensure that Federal agencies gave domestic products priority in competition for government contracts. The Act provides that, unless it is inconsistent with the public interest or unreasonably costly, all materials and supplies purchased by any department of the Federal Government, and all materials and supplies furnished by contractors doing work for the Federal Government, be produced within the jurisdictional limits of the United States.

Historically, for purposes of implementing the Act, the determination of what constitutes a domestic unmanufactured product has been based simply on the geographic origin of the product. Determining what constitutes a domestic manufactured product has been more difficult, however, and has ultimately come to be based on where the final manufacturing occurred *and* where the cost of mining, producing, or manufacturing the components of such a product was incurred. Depending on the method of acquisition and the agency involved, domestic products are given 6, 12, or 50 percent price evaluation preferences over foreign products in the award of Federal procurement contracts. Such price evaluation preferences are waived under certain conditions for signatory countries of the GATT Agreement on Government Procurement and in accordance with Title III of the Trade Agreements Act of 1979 and they do not apply to procurements conducted in accordance with appropriate reciprocal defense procurement Memoranda of Understanding.

In 1988, the Act was amended by several sections of Title VII of Pub. L. 100–418. Among other things, the 1988 amendments directed the Administrator of Federal Procurement Policy to "conduct an assessment of the rules currently used under this Act for making determinations of country of origin and alternatives to such rules." In conducting this assessment, the Administrator was directed to identify and evaluate reasonable alternative rules of origin, including one which requires that a determination be made on the basis of total cost. The results of this analysis, including policy guidance and recommended legislative changes, are to be submitted to designated committees of Congress by February 1990.

In conducting this analysis, the Administrator was instructed to consult and seek comment from representatives of the United States labor and business communities, other interested United States persons, and other Federal agencies. To obtain such comment the Administrator was directed to hold public hearings. Consequently, the Administrator is calling the public hearing described in this notice.

To focus discussion at the public hearing announced in this notice, witnesses are requested to include a discussion of the following questions in their testimony:

How is the "rule of origin" under the Act currently interpreted and applied? In your experience, what has been the impact of this interpretation?

How would you describe the problem(s) that the "rule of origin" is intended to remedy?

How are costs currently factored into the determination of origin under the Act? What problems have you experienced in calculating origin based on current cost factors?

How should costs of mixed contracts (e.g., 40% service and 60% product) be calculated under the Act?

Where there are many products to be awarded under one contract (i.e., not competed on a line item basis), how should costs be calculated? How should the determination of manufacturing be made in this case?

How should assembly be treated in determining origin? For example, should the assembly of components into an integrated computer system be treated as manufacturing? Why?

What rule should be used to determine the origin of products from foreign countries which are subject to sanctions under the Act as amended (i.e., a country-specific rule of origin for foreign goods)?

What would happen if the determination of origin under the Act were based on the total cost of a product?

What specific cost factors should be used in determining the total cost of a product under the Act? Why? Are these factors auditable for purposes of certifying they were in fact incurred in the production of this product?

What other way(s) might costs be factored into the determination of origin under the Act?

What would be the effect of using the "rule of origin" under the Buy American Act as amended for the "rule of origin" for a designated country end-product under the Trade Agreements Act (i.e., manufactured in a designated country and containing 51% combined-designated content)?

What other ways might reasonably be used to determine the origin of products for purposes of implementing the Act? How would these changes alter the remedial intent of the Act?

Allan V. Burman,

Deputy Administrator and Acting Administrator.

[FR Doc. 89–14208 Filed 6–13–89; 8:45 am]

BILLING CODE 3110–01–M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Dated June 8, 1989.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2224, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

U.S. Customs Service

OMB Number: 1515–0147
Form Number: None
Type of Review: Extension
Title: Convention on Cultural Property Implementation Act
Description: The collection of information is necessary in order for Customs to effectively monitor the importation of items of cultural property. The information may be provided by declaration, certificate of ownership, etc.
Respondents: Individuals or households, Non-profit institutions, Small businesses or organizations
Estimated Number of Respondents: 5
Estimated Burden Hours Per Response: 1 hour
Frequency of Response: On occasion
Estimated Total Reporting Burden: 5 hours

Clearance Officer: Dennis Dore (202) 535–9267, U.S. Customs Service, Paperwork Management Branch, Room 6316, 1301 Constitution Avenue, NW., Washington, DC 20229.

OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management

and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Department Reports, Management Officer.

[FR Doc. 89-14095 Filed 6-13-89; 8:45 am]

BILLING CODE 4810-25-M

Public Information Collection Requirements Submitted to OMB for Review

DATE: June 8, 1989.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub.L. 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2224, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545-0057
Form Number: 1024
Type of Review: Revision
Title: Application for Recognition of Exemption Under Section 501(a) or for Determination Under Section 210
Description: Organizations wanting to be exempt from Federal income tax under section 501(a) as organizations described in most paragraphs of section 501(c), or a legal service plan described in section 120, must apply to IRS for a determination or ruling letter. The information supplied is used to determine whether the organization qualifies for exempt status.
Respondents: Non-profit institutions
Estimated Number of Respondents: 16,088
Estimated Burden Hours Per Response/ Recordkeeping:
Recordkeeping: 52 hours 51 minutes
Learning about the law or the form: 2 hours 45 minutes
Preparing, copying, assembling, and sending the form to IRS: 4 hours 56 minutes
Frequency of Response: On occasion
Estimated Total Recordkeeping/ Reporting Burden: 1,021,303 hours.

OMB Number: 1545-0073
Form Number: 1310
Type of Review: Extension
Title: Statement of Person Claiming Refund Due a Deceased Taxpayer
Description: Form 1310 is used by a claimant to secure payment of a refund on behalf of a deceased taxpayer. The information enables IRS to send the refund to the correct person.
Respondents: Individuals or households
Estimated Number of Respondents: 7,500
Estimated Burden Hours Per Response/ Recordkeeping:
Learning about the law or the form: 3 minutes
Preparing the form: 14 minutes
Copying, assembling, and sending the form to IRS: 17 minutes
Frequency of Response: On occasion
Estimated Total Recordkeeping/ Reporting Burden: 5,100 hours

OMB Number: 1545-0172
Form Number: 4562
Type of Review: Revision
Title: Depreciation and Amortization
Description: Taxpayers use Form 4562 to: (1) Claim a deduction for depreciation and/or amortization; (2) make a section 179 election to expense depreciable assets; and (3) answer questions regarding the use of automobiles and other listed property to substantiate the business use under section 274(d).
Respondents: Individuals or households, Farms, Businesses or other for-profit, Non-profit institutions, Small businesses or organizations
Estimated Number of Respondents: 12,500,000
Estimated Burden Hours Per Response/ Recordkeeping:
Recordkeeping: 29 hours 39 minutes
Learning about the law or the form: 3 hours 16 minutes
Preparing and sending the form to IRS: 3 hours 54 minutes
Frequency of Response: Annually
Estimated Total Recordkeeping/ Reporting Burden: 522,250,000 hours

Clearance Officer: Garrick Shear (202) 535-4297, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW. Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 89-14096 Filed 6-13-89; 8:45 am]

BILLING CODE 4810-25-M

Sunshine Act Meetings

Federal Register
Vol. 54, No. 113
Wednesday, June 14, 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, June 20, 1989.

PLACE: Board Room, Eighth Floor, 800 Independence Avenue, SW., Washington, DC 20594.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Marine Accident Report: Explosion Aboard the Maltese Tank Vessel FIONA in Long Island Sound, Northport, New York, August 31, 1988.

2. Recommendation to NHTSA: Grade Crossing Accident Involving Ford Tractor Semitrailer and an Amtrak Passenger Train, Pontiac, Illinois, April 28, 1987.

Proposed Comments on Federal Aviation Administration (FAA) Proposed Rulemaking: "Special Federal Aviation Regulation (SFAR) No. XX; Advanced Qualification Program," (FAA Docket No. 25804).

FOR MORE INFORMATION CONTACT: Bea Hardesty, (202) 382-6525.

Bea Hardesty,

Federal Register Liaison Officer.

June 9, 1989.

[FR Doc. 89-14256 Filed 6-12-89; 2:46 pm]

BILLING CODE 7533-01-M

federal register

Wednesday
June 14, 1989

Part II

Environmental Protection Agency

40 CFR Part 704

Comprehensive Assessment Information Rule; Technical Amendment

ENVIRONMENTAL PROTECTION AGENCY

40 CFR PART 704

[OPTS-82013; FRL-3601-7]

Comprehensive Assessment Information Rule; Technical Amendment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; technical amendment.

SUMMARY: This document amends the Comprehensive Assessment Information Rule (CAIR) by adding chemical substance trade names to the list of substances subject to reporting. This amendment is necessary because certain processors may purchase and process a CAIR regulated substance under a trade name and not realize they are required to report.

DATES: This rule is effective on June 14, 1989.

FOR FURTHER INFORMATION CONTACT: Michael M. Stahl, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. EB-44, 401 M St., SW., Washington, DC 20460, Telephone: (202-554-1404), TDD (202)554-0551).

SUPPLEMENTARY INFORMATION: Under TSCA section 8(a), EPA requires manufacturers, importers, and processors of chemical substances listed in the Comprehensive Assessment Information Rule (CAIR) to complete specified sections of the CAIR reporting form. For some of these substances, EPA is requiring processors in addition to the original manufacturer(s) or importer(s) to report. Since some processors may purchase and process a listed substance under a trade name, they may not realize the substance is listed on the CAIR and that they are required to report.

EPA is hereby notifying those persons who purchase and process a substance known to them by any of the trade names listed in this amendment of their reporting and recordkeeping obligations under the CAIR. This method of notification was set forth in the **Federal Register** of December 22, 1988 (53 FR 51698).

There are two other reporting/notification options involving trade name substances under § 704.208(a) of the CAIR outlined in the above-mentioned **Federal Register**. Manufacturers, importers, or processors of CAIR listed substances who distribute the substance under a trade name but did not wish to submit a list of trade names to EPA for publication in this amendment had the option to do one of the following: (1) Report on behalf of each processor customer, or (2) notify each proecessor customer of their reporting obligations under CAIR.

EPA issued a notice of temporary administrative relief regarding the trade name reporting provisions of the CAIR on May 10, 1989 (54 FR 14324), in response to a petition EPA received from the Synthetic Organic Chemical Manufacturers Association (SOCMA) requesting EPA to stay certain aspects of the CAIR. In the **Federal Register** notice, EPA granted temporary administrative relief to persons who believe that compliance with each of the provisions under § 704.208(a) of the CAIR will result directly or indirectly in the disclosure of a trade secret concerning the identity of substances in certain trade name products. The temporary administrative relief announced in the **Federal Register** notice also permitted those persons who had already submitted a trade name to EPA to subsequently notify EPA that the submitted trade name is Confidential Business Information (CBI).

Trade names that are listed in this trade name amendment were not submitted under claims of CBI or subsequently identified as CBI. In accordance with 40 CFR 704.708, EPA is publishing these trade names.

List of Subjects in 40 CFR Part 704

Chemicals, Environmental protection, Hazardous materials, Recordkeeping and reporting requirements.

Dated: June 6, 1989.

Gary E. Timm,

Acting Division Director, Existing Chemical Assessment Division.

Therefore, 40 CFR Part 704 is amended as follows:

1. The authority citation for Part 704 continues to read as follows:

Authority: 15 U.S.C. 2607(a).

2. Section 704.225 is amended by revising the section heading and adding paragraph (b) to read as follows:

§ 704.225 Chemical substance matrix by CAS registry number and trade name matrix in alphabetical order.

* * * * *

X/P = Each person who manufactured, imported, or processed the substance for commercial purposes and distributed the substance under a trade name

(b) List of trade names

CAS No./trade name	Who must report	Exemptions added (+) removed (-)	Coverage period	Question selection	Effective date
91-08-7/584-84-9	X/P		2/8/87-2/5/89	1, 2.04 thru 2.09, 2.11 thru 2.16, 3 all, 4.01 thru 4.05, 5 all, 6.05, 7.01, 7.03 thru 7.06, 8.01, 8.05, 8.06, 8.23, 9.01 thru 9.15, 9.19, 9.20, 9.22, 10.01, 10.02, 10.05, 10.08 thru 10.16, 10.23	6/14/89
AD-20 Part A					
AD-20 Part B					
Andur 2-90 AP					
Andur 2-92 AP					
Andur 2-95 AP					
Andur 8 AP-LM					
Andur 9 AP-LM					
Andur 9000 APX					
Andur 2-72 DP					
Andur 5 DP-LM					
Andur 6 DP-LM					
Andur 7 DP-LM					
CC-130A					
CC-132A					
CC-133A					
Clear resin solution					
920C134 CORROCOOL™/curling agent					
700C540 COROTHANE/curing agency					
975C623 COROTHANE/urethane clear glaze					
DP-1001-B Prepolymer					
DP-2077 Part A					
DP-3138 Part A					

CAS No./trade name	Who must report	Exemptions added (+) removed (−)	Coverage period	Question selection	Effective date
DP-8448 Part A					
DP-8696-8					
DP-8696-8 Part A					
DP-8798 Part A					
DP-8837					
DP-9783 Part A					
DP-10469					
DP-10476 Part A					
DP-10490					
DP-10602					
DP-10856					
DP-10971					
DP-10974					
DP-10976					
DP-10979 Part A					
DP-11304					
DP-11933 Part A					
DP-11998					
DP-12079					
DP-12211					
DP-12488					
DP-12521					
DP-12768					
DP-12922 Part A					
DP-14381					
DP-14811					
DP-15227 Part A					
EN-4 Part A					
EN-5 Part A					
EN-6 Part A					
EN-7 Part A					
EN-8 Part A					
EN-9 OZR Part A					
EN-9 Part A					
EN-10 Part A					
EN-11 Part A					
EN-12 Part A					
EN-1554 Part A					
Mondur TDS					
RN-1501					
RN-1505					
RN-1511					
RN-1512					
RN-1513					
RN-1526					
RN-1527					
Scuranate T 100					
Solithane 790: 3.2%					
Solithane S-113:6 to 7%					
ST-115 MF Part A					
ST-115 Part A					
Stepanfoam A-206-T					
Stepanfoam A-210-T					
Stepanfoam A-216-T					
Stepanfoam BH-610-T					
Stepanfoam BH-614-T					
Stepanfoam BX-105-C-6-T					
Stepanfoam BX-105-C-10-T					
Stepanfoam BX-105-C-14-T					
Stepanfoam BX-105-C-20-T					
Stepanfoam BX-273-8-T					
Stepanfoam C-605-T					
Stepanfoam C-608-T					
Stepanfoam C-614-T					
Stepanfoam CA-620-T					
Stepanfoam F-302-A-T Modified					
Stepanfoam F-202-T					
Stepanfoam F-302-T					
Stepanfoam F-302-T (odorless C)					
Stepanfoam F-403-T					
Stepanfoam F-403-T (odorless C)					
Stepanfoam F-506-T					
Stepanfoam F-506-T (odorless C)					
Stepanfoam F-516-T					
Stepanfoam G-302-T					
Stepanfoam G-302-T modified					
Stepanfoam G-304-T					
Stepanfoam G-304-T modified					
Stepanfoam G-306-T					

CAS No./trade name	Who must report	Exemptions added (+) removed (−)	Coverage period	Question selection	Effective date
Stepanfoam G-306-T modified					
Stepanfoam G-308-T					
Stepanfoam G-308-T modified					
Stepanfoam G-502-T					
Stepanfoam G-504-T					
Stepanfoam G-506-T					
Stepanfoam G-508-T					
Stepanfoam H-102-N-T					
Stepanfoam H-402-N-T					
Stepanfoam H-602-N-T					
Stepanfoam H-103-T					
Stepanfoam H-104-T					
Stepanfoam H-106-T					
Stepanfoam J-108-T					
Stepanfoam KA8812					
Stepanfoam KA8821					
Stepanfoam KA8843					
Stepanfoam KA8846					
Stepanfoam KA8847					
Stepanfoam KA8848					
Stepanfoam KA8851					
Stepanfoam KA8852					
Stepanfoam KA8853					
Stepanfoam KA8854					
Stepanfoam KA8855					
Stepanfoam KA8857					
Stepanfoam KA8858					
Stepanfoam KA8859					
Stepanfoam KA8860					
Stepanfoam KA8861					
Stepanfoam KA8865					
Stepanfoam KA8866					
Stepanfoam P-502-T					
Stepanfoam P-506-T					
Stepanfoam R-109					
Stepanfoam R-112					
Stepanfoam R-222					
Stepanfoam SX-195-T					
TDI 100					
Toluene diisocyanate 100					
Toluene diisocyanate R-30					
700C753 UH3/hardener					
Uralite 1060 Part A					
Uralite 1070 Part A					
Uralite 1090 Part A					
Uralite 3143 Part A					
Uralite 3144 Part A					
Uralite 3204 prepolymer					
Uralite 3206 prepolymer					
Uralite 3207 prepolymer					
Uralite 3209 prepolymer					
Uralite 3213 prepolymer					
Uralite 3214 prepolymer					
Uralite 3215 prepolymer					
Uralite 3232 prepolymer					
Uralite 3237 prepolymer					
Uralite 3241 prepolymer					
Uralite 3242 prepolymer					
Uralite 3243 prepolymer					
Uralite 3263 prepolymer					
Uralite 3268 prepolymer					
700C760 urethane/curing agent					
975C931 urethane moisture/cured clear 50-00-0500-04					
101-14-4	X/P		2/8/87-2/5/89	1, 9.01, 9.03, 9.06, 9.08, 9.12, 9.15	6/14/89
Activator M					
AH-5					
AH-18					
AH-20					
AH-23					
Andur 9000AS Part B					
Cuamine M					
Curene 185					
Curene 442					
Curene 3005					

CAS No./trade name	Who must report	Exemptions added (+) removed (−)	Coverage period	Question selection	Effective date
Cyanaset M					
DP-2077 Part B black					
DP-2077 Part B green					
DP-5801-B green					
DP-6322-2 Part B					
DP-6325 Part B tan					
DP-6332 Part B					
DP-7626 Part B black					
DP-8513-B					
DP-10000 Part B					
DP-10000 Part B gray					
DP-10744 Part B					
DP-10847					
DP-11252 Part B					
DP-12105 Part B					
DP-14346 Part B					
EN-1554 Part B					
EN-1554 Part B black					
ST-80 Part B brown					
ST-80 Part B green					
ST-80 Part B med					
ST-80 Part B red					
ST-90 Part B					
Suncure M					
TU-50A Part B					
TU-65 Part B					
TU-65 Part B green					
TU-70 Part B					
TU-70 Part B blue					
TU-79 Part B					
TU-79 Part B green					
TU-79 Part B med. blue					
TU-79 Part B red					
TU-80 Part B					
TU-80 Part B blue					
TU-80 Part B red					
TU-89 Part B					
TU-89 Part B black					
TU-89 Part B green					
TU-89 Part B red					
TU-89 Part B white					
Uracure 3730 Part B					
Uralite 3111 Part B					
Uralite 3113 Part B					
Uralite 3115 Part B					
Uralite 3117 Part B					
Uralite 3120 Part B					
Uralite 3121 Part B					
Uralite 3122 Part B					
Uralite 3128 Part B					
Uralite 3167 Part B					
Zebron 385					
Zebron 385 blue					
Zebron 385-6					
Zebron 385-6 gray					
Zebron 386					
Zebron 386 brown					
Zebron 386C					
Zebron 386 PC					
Zebron 486					
584-84-9 (See trade names listed under CAS No. entry 91-08-7.)					
1321-38-6/26471-62-5	X/P		2/8/87-2/5/89	1, 2.04 thru 2.09, 2.11 thru 2.16, 3 all, 4.01 thru 4.05, 5 all, 6.05, 7.01, 7.03 thru 7.06, 8.01, 8.05, 8.96, 8.23, 9.01 thru 9.15, 9.19, 9.20, 9.22, 10.01, 10.02, 10.05, 10.06, 10.08 thru 10.16, 10.23	6/14/89
AH-18					
AH-20					
AH-23					
Andur 8 AP					
Andur 8 AP W/24% TXIB					
Andur 8 APF					
Andur 8 APF (Vail)					
Audur 8 APF-LM					
Audur 9 AP					
Andur 9 AP-LM					
Andur 9 APF					
Andur 9 APF-LM					

CAS No./trade name	Who must report	Exemptions added (+) removed (−)	Coverage period	Question selection	Effective date
Andur 70 DP					
Andur 80-5 AP					
Andur 90 AP					
Andur 93 AP					
Andur 95 AP					
Andur 520 DP					
Andur 700 AP					
Andur 720 DP					
Andur 800 AP					
Andur 800 DP					
Andur 850 AP					
Andur 900 AP					
Andur 920 AP					
Andur 930 AP					
Andur 950 AP					
Andur 3300 AS Part A					
Andur 5000 DP					
Andur 5500 DP					
Andur 6500 DP					
Andur 7000 AS					
Andur 7000 DP					
Andur 7200 DP					
Andur 7500 DP					
Andur 8000 AP					
Andur 8200 AP					
Andur 8500 AP					
Andur 9000 AP					
Andur 9200 AP					
Andur 9000 AS Part A					
Andur 9500 AP					
Andur CP-9000					
Andurcoat 60					
Autoflex component A					
Bayfit 540 A					
Bayfit 550 A					
Bayfit 551 A					
Bayfit 552 A					
Bayfit 554 A					
Bayfit 555 A					
Bayfit 556 A					
Bayfit 880-A					
CE-115-35 Part A					
CE-1157-30					
CE-1163					
CE-1164					
DP-1001-B prepolymer					
DP-1963 Part A					
DP-4541 Part A					
DP-4736 Part A					
DP-5758 A					
DP-6332 Part A					
DP-6872 Part A					
DP-8222					
DP-8348-3 Part A					
DP-8449					
DP-8536 black					
DP-8536 part A					
DP-8806					
DP-8806					
DP-9170					
DP-10000 Part A					
DP-10485					
DP-10561					
DP-10744 Part A					
DP-11021					
DP-11251 Part A					
DP-11252 Part A					
DP-11289 Part A					
DP-11321 Part A					
DP-11339 Part A					
DP-11373 Part A					
DP-12105 Part A					
DP-12390 Part A					
DP-12752 Part A					
DP-12768					
DP-12792 Part A					
DP-12816 Part A					
DP-14120 Part A					
DP-14346 Part A					

CAS No./trade name	Who must report	Exemptions added (+) removed (−)	Coverage period	Question selection	Effective date
DP-14455 Part A					
DP-14552 Part A					
DP-14726 Part A					
DP-14943 Part A					
DV-5159					
Elastan 6054U Iso					
Elastan 6055U Iso					
Elastan 6059U Iso					
Elastocast 7050U Iso					
Elastoflex C 2006U Iso					
Elastoflex C 2007U Iso					
Elastoflex C 2010U Iso					
Elastoflex C 2013U Iso					
Elastoflex C 2024U Iso					
Elastoflex C 2025U Iso					
Elastoflex C 2034U Iso					
Elastoflex C 2035U Iso					
Elastoflex C 2036U Iso					
Elastoflex C 2038U Iso					
Elastoflex C 2048U Iso					
Elastoflex C 2066U Iso					
Elastoflex R 2017U Iso					
Elastopan S 4500U Iso					
Elastopor P 1059U Iso					
EN-2 Part A					
EN-3 Part A					
EN-1554 Part B					
EN-1554 Part B					
FR-1259 black					
Hypol 2000					
Hypol 2002					
Hypol 2003					
Hypol 3000					
Isocyanate 05					
Isocyanate 37 Normal					
Isocyanate 37 Rev.					
Isocyanate 56					
Lupranate 7525					
Lupranate 8020					
Lupranate T80 Type 1					
Lupranate T80 Type 2					
Lupranate T80 Type 3					
Lupranate T80 Type 4					
Lupranate TM 105					
LX 700 Iso					
MDI/TDI Based Iso					
Mondur 000					
Mondur 102					
Mondur 425					
Mondur 428					
Mondur 437					
Mondur 445					
Mondur 446					
Mondur 450					
Mondur 452					
Mondur 466					
Mondur 473					
Mondur 494					
Mondur 510					
Mondur 521					
Mondur 531					
Mondur 532					
Mondur 536					
Mondur 537					
Mondur 539					
Mondur 545					
Mondur 569					
Mondur 574					
Mondur 595					
Mondur A-39-S					
Mondur HR					
Mondur MT-40					
Mondur T-422					
Mondur TD					
Mondur TD-80 all grades					
Mondur TD-564					
Multrathane 000					
PBA-2279 (Formerly 4397-32-5)					
Pecora Duramem 600CTF					

CAS No./trade name	Who must report	Exemptions added (+) removed (−)	Coverage period	Question selection	Effective date
Pecora Duramem H-500					
Pecora Duramem R-500					
Pecora Duramem V-500					
Pecora Dynaflex					
Pecora Dynatred					
Pecora Dynatrol I					
Pecora Dynatrol II					
Pecora Dynaweld					
Pecora Urexpan NR-200					
Pecora Urexpan NR-201					
Pecora Urexpan NR-300					
PX Iso 1					
PX Iso 2					
PX Iso 12					
PXI SF-52 Iso					
PXI 3453M Iso					
PXI 4502-03 Iso					
PXI 4744-63 Iso					
PXI 4834-64 Iso					
PXI 5157-82 Iso					
PXO 38-01 Iso					
PXO 44U-39 Iso					
PXO 47-03 Iso					
PXO 68-12 Iso					
PXO 100-18 Iso					
PXO 135-32 Iso					
PXO 1091-36 Iso					
Resale Isocyanate					
RN-1503					
RN-1515					
RN-1520					
RN-1521					
RN-1525					
RN-1558					
RN-1559					
RN-1560					
RN-2000					
RN-2025					
RN-3000					
RN-3038					
RN-3038ER					
RN-3039					
RN-3050					
Rubinate TDI 80/20					
Scuranate BT (inactive)					
Scuranate MT 37 (inactive)					
Scuranate T 65					
Scuranate T 80					
Scuranate T 80P					
Scuranate TB 826					
Scuranate TB 831					
Solithane 291: 3.2%					
Spenkel M 21-40X					
Spenkel M 21-47X					
Spenkel M 21-Z-40					
Spenkel M 26					
Spenkel M 37-A6X-42					
Spenkel M 37-A6X-45					
Spenkel M 80-A6X-50					
Spenkel M 86-50CX					
Spenkel M 86-50E					
Spenkel M 86-A6X-50					
Spenkel M 86-Z-50					
Spenkel P 14-75S					
Spenkel P 49-A6-60					
Spenkel P 49-A6X-60					
Spenkel P 82-K4-75					
Spenkel P 1976					
Spenkel P 4146-60A1X					
Spenkel P 4448-40AX					
Spenkel P 4820-32A1X					
Spenkel P 5562					
ST-80 Part A					
ST-90 Part A					
TDI Based Iso					
TDI 80					
TDI 65/35					
TDI 80/20					
TDI/MDI Based Iso					

CAS No./trade name	Who must report	Exemptions added (+) removed (−)	Coverage period	Question selection	Effective date
Toluene diisocyanate 65/35					
Toluene diisocyanate 80/20					
Toluene diisocyanate T 80					
Toluene diisocyanate T 80 P					
Tremthane Urethane Sealant 4995					
TU-50A Part A					
TU-65 Part A					
TU-70 Part A					
TU-75 Part A					
TU-79 Part A					
TU-80 Part A					
TU-89 Part A					
UN-708 Isocyanate					
Uralite 0164 Part A					
Uralite 3109 prepolymer (Part A)					
Uralite 3110 prepolymer (Part A)					
Uralite 3111 Part A					
Uralite 3113 Part A					
Uralite 3115 Part A					
Uralite 3117 Part A					
Uralite 3121 Part A					
Uralite 3122 Part A					
Uralite 3124 Part A					
Uralite 3128 Part A					
Uralite 3167 Part A					
Uralite 3208 prepolymer					
Uralite 3211 prepolymer					
Uralite 3215 prepolymer					
Uralite 3216 prepolymer					
Uralite 3217 prepolymer					
Uralite 3231 prepolymer					
Uralite 3238 prepolymer					
Uralite 3239 prepolymer					
Uralite 3240 prepolymer					
Uralite 3257 prepolymer					
Uralite 3259 prepolymer					
Uralite 3261 prepolymer					
Uralite 3264 prepolymer					
Uralite 3267 prepolymer					
Uralite 3269 prepolymer					
Uralite 3270 prepolymer					
Uralite 3272 prepolymer					
Uralite 3274 prepolymer					
Uralite 3275 prepolymer					
Uralite 6108 Part A					
Urethane Windshield Sealant 2421-11					
Voranate 3071 Isocyanate					
Voranate 3138 Isocyanate					
Voranate DAC Isocyanate					
Voranate T-80 Type I Toluene diisocyanate					
Voranate T-80 Type II Toluene diisocyanate					
Voranate T-7000 Isocyanate					
Voranate TCPA Isocyanate					
Voranate TM-821 Isocyanate					
WP-102					
Wuc 3083T Iso					
Wuc 3104T Iso					
Wuc 3129T Iso					
Wuc 3133T Iso					
Wuc 3187T Iso					
Wuc 3205T Iso					
Wuc 3214T Iso					
Wuc 3240T Iso					
Wuc 3246T Iso					
XAS 1565.01L Experimental Isocyanate Type I					
XAS 1565.00L Experimental Isocyanate Type II					
XAS 10848.00 Experimental Isocyanate					
XUS 15116.00 Developmental Isocyanate Blend					
5470-11-1 (See trade names listed under CAS No. entry 10039-54-0.)					
10039-54-0/5470-11-1	X/P		2/8/87-2/5/89	1, 2.07, 2.12 thru 2.14, 3.04, 6.03 thru 6.05, 9.01	6/14/89
C-41 Agfa Color Process F Kit-Color Developer Part A					
Agfa Color RSF 600 Rejuvenator Part B					
Agfa Color RSP 100 Regenerator Part C					
Agfa Color RSP 770 Regenerator Part C					
Agfa Pro CN Process Kit—Color Developer Replenisher Part C					
Arostit LF Powder					
Arostit LF Powder *					

CAS No./trade name	Who must report	Exemptions added (+) removed (−)	Coverage period	Question selection	Effective date
Choice Film Developer, Part B					
Choice Print Developer, Part B					
Colenta Paper Developer, Part A					
LV-48 Colorprint Developer Replenisher					
Colorprint Developer Regenerator Part B					
Colorprint 101 ER Developer Replenisher					
Colorprint 101 ER Developer Replenisher Part A					
Colorprint-XL Developer Replenisher, Part B					
CPR-3 Developer Replenisher, Part C					
Dealer Supply Opt III Developer, Part B					
Dealer Supply Phase III Developer, Part B					
Dealer Supply Phase IV Developer, Part B					
E-Prep Neutralizer					
Electro-Brite A-474					
Electro-Brite E-Prep Neutralizer					
Electro-Brite N-466					
Electro-Brite N-466L					
Fuji CN-160Q NQ1-R Color Developer Replenisher					
Fuji Color Developer Replenisher NQ1-R					
Fuji CP-25Q PQ1-R Color Developer Replenisher					
Hydroxylamine Reagent					
KIS DN Film Developer, Part B					
KIS Micro 2.002 Film Developer, Part B					
KIS Micro 2.002 Paper Developer, Part B					
KIS Super DN Film Developer, Part B					
KIS Super X-Press Developer Part B					
KIS Ultra X-Press Developer, Part A					
Kodak Developer Replenisher-Process R-3, MX 1238-1					
Kodak Developer Replenisher-MX 1341					
Kodak Developer Replenisher-RT MX-1286-2					
Kodak Double Check Position Proofing Developer Replenisher					
Kodak EA-5 Neutralizer and Replenisher					
Kodak Ektachrome Movie Neutralizer and Replenisher					
Kodak Ektachrome R-3 Color Developer and Replenisher					
Kodak Ektachrome R-3000 Color Developer					
Kodak Ektaprint 2 Developer					
Kodak Ektaprint 2 Developer and Replenisher					
Kodak Ektaprint 2 Developer and Replenisher LORR					
Kodak Ektaprint 2 Developer and Replenisher LORR H					
Kodal Ektaprint 2 Developer and Replenisher LORR M					
Kodak Ektaprint 2 Developer and Replenisher RT					
Kodak Ektaprint 2 Processing Kit					
Kodak Ektaprint 200 Developer					
Kodak Ektaprint R-100 Color Developer and Replenisher					
Kodak Ektaprint R-1000 Color Developer					
Kodak Ektaprint R-1000 Processing Kit					
Kodak Flexicolor AR Developer Replenisher					
Kodak Flexicolor AR Developer Replenisher LORR					
Kodak Flexicolor Developer					
Kodak Flexicolor Developer Replenisher					
Kodak Flexicolor Developer Replenisher LORR					
Kodak Flexicolor Developer Regenerator, MX-1445					
Kodak Flexicolor Developer Replenisher, MX-1210-3					
Kodak Flexicolor Processing Kit for Process C-41					
Kodak Flexicolor Replenisher, RT, MX-1398					
Kodak Hobby-Pac Color Reversal Kit					
Kodak Hobby-Pac Negative Film Kit					
Kodak ME-4/ECO-3 Neutralizer and Replenisher					
Kodak MX1445 Developer Regenerator					
Kodak Neutralizer and Replenisher, Process E-4					
Kodak Neturalizer, Process E-4					
Kodak Neutralizing Agent NA-1					
Konica Color-7 Developer Replenisher					
N-1 Konica Color Developer Replenisher					
N-1B Konica Color Developer Solution					
P-1 Konica Color Developer Replenisher					
Manver II Hardness Indicator (Reagent)					
Negacolor Developer Replenisher, Part B					
Negacolor-2 Developer Replenisher, Part B					
Negacolor-LR Developer Replenisher, Part B					
Photo KIS Developer, Part A					
Posakwik Developer Replenisher (Cat. No. 822271), Part A					
Posakwik Developer Replenisher (Cat. No. 821271, 821275) Part B					
Process 63 CDR Color Developer Replenisher Part C					

CAS No./trade name	Who must report	Exemptions added (+) removed (−)	Coverage period	Question selection	Effective date
Process 63 CDR Color Developer/Replenisher Working Strength					
Process 70 CDJ Color Developer Rejuvenator Part B					
Process 70 CDR Color Developer Replenisher					
Process 70 CDR Color Developer/Replenisher Working Strength					
Process 70 CD-LR Color Developer Replenisher Part B					
Process 70 CD-LR Color Developer/Replenisher Working Strength					
Process 71 CDR Color Developer/Replenisher Working Strength					
Process 71 CDR Color Developer Replenisher Part B					
Process 92 CDJ Color Developer Rejuvenator Part C					
Process 92 CDR Color Developer/Replenisher Part C					
Process 92 CDR Color Developer/Replenisher Working Strength					
Process 92 CDR Professional Color Developer					
Process 92 CDR Professional Color Developer Replenisher Part C					
Process 92 CD-LR Color Developer Replenisher Part B					
Process 92 CD-LR Developer/Replenisher Working Strength					
Process 92 CD-MR Color Developer Replenisher Part B					
Process 92 DC-MR Color Developer/Replenisher Working Strength					
Process 92 CDR-RT Part C					
Process 92 CDR-RT Working Strength					
Recoprint 92CDR-RT Color Developer/Replenisher Part C					
26471-62-5 (See trade names listed under CAS No. entry 1321-38-6.)					

[FR Doc. 89-14003 Filed 6-13-89; 8:45 am]

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federal register

Wednesday
June 14, 1989

Part III

Office of Management and Budget

Budget Rescissions and Deferrals, Notice

OFFICE OF MANAGEMENT AND BUDGET

Cumulative Report on Rescissions and Deferrals

June 1, 1989.

This report is submitted in fulfillment of the requirement of Section 1014(e) of the Impoundment Control Act of 1974 (Pub. L. 93–344). Section 1014(e) provides for a monthly report listing all budget authority for this fiscal year for which, as of the first day of the month, a special message has been transmitted to the Congress.

This report gives the status as of June 1, 1989 of six rescission proposals and 14 deferrals contained in the first four special messages of FY 1989. These messages were transmitted to the Congress on September 30 and November 29, 1988, and January 9 and April 18, 1989.

Rescissions (Table A and Attachment A)

As of June 1, 1989, there are no funds being withheld related to rescission proposals. Two of the six rescission proposals made by the prior Administration (R89–5 and R89–6, as described in Attachment A) continue to be supported by President Bush as offsets to supplemental requests.

Deferrals (Table B and Attachment B)

As of June 1, 1989, $5,094.9 million in budget authority was being deferred from obligation. Attachment B shows the history and status of each deferral reported during FY 1989.

Information From Special Messages

The special messages containing information on the rescission proposals and deferrals covered by this cumulative report are printed in the **Federal Registers** listed below:

Vol. 53, FR p. 39879, Wednesday, October 12, 1988

Vol. 53, FR p. 49530, Wednesday, December 7, 1988

Vol. 54, FR p. 1650, Friday, January 13, 1989

Vol. 54, FR p. 18234, Thursday, April 27, 1989

Richard G. Darman,

Director.

BILLING CODE 3110-01-M

TABLE A

STATUS OF 1989 RESCISSIONS

	Amount (In millions of dollars)
Rescissions proposed by President Reagan.....	143.1
Accepted by the Congress as of June 1, 1989.....	0
Funding made available.....	123.1
Funding never withheld.....	20.0

NOTE: President Bush continues to support two rescission proposals (identified as R89-5 and R89-6 in Attachment A) as offsets to pending supplemental requests, even though the related funds have been made available. They total $6.4 million.

****

TABLE B

STATUS OF 1989 DEFERRALS

	Amount (In millions of dollars)
Deferrals proposed by the President.....	9,156.2
Routine Executive releases through June 1, 1989... (OMB/Agency releases of $4,067.3 million and cumulative adjustments of $6.0 million)	-4,061.3
Overturned by the Congress.....	0
Currently before the Congress.....	5,094.9

Attachments

Attachment A - Status of Rescissions - Fiscal Year 1989

As of June 1, 1989 Amounts in Thousands of Dollars Agency/Bureau/Account	Rescission Number	Amount Previously Considered by Congress	Amount Currently before Congress	Date of Message	Amount Rescinded	Amount Made Available	Date Made Available	Congression Action
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT								
Housing Programs:								
Subsidized housing programs	R89-1	20,000		1-9-89		(See note below.)		
Community Planning and Development:								
Urban development action grants	R89-2	51,651		1-9-89		51,651	2-28-89	
DEPARTMENT OF THE INTERIOR								
Fish and Wildlife Service:								
Land acquisition	R89-3	30,000		1-9-89		30,000	2-28-89	
National Park Service:								
Land acquisition and State assistance	R89-4	35,000		1-9-89		35,000	2-28-89	
DEPARTMENT OF JUSTICE								
Office of Justice Programs:								
Justice assistance	R89-5	5,000		1-9-89		5,000	3-16-89	
DEPARTMENT OF LABOR								
Employment Standards Administration:								
Black lung disability trust fund	R89-6	1,445		1-9-89		1,445	3-16-89	
TOTAL, RESCISSIONS		143,096	0			123,096		

NOTE. - The $20 million proposed for rescission in Rescission Proposal No. 89-1 was never withheld from obligation. Therefore, there was no need to release the funds.

Attachment B - Status of Deferrals - Fiscal Year 1989

As of June 1, 1989 Amounts in Thousands of Dollars Agency/Bureau/Account	Deferral Number	Amount Transmitted Original Request	Amount Transmitted Subsequent Change (+)	Date of Message	Cumulative OMB/Agency Releases (-)	Congressionally Required Releases (-)	Congressional Action	Cumulative Adjustments (+)	Amount Deferred as of 6-1-89
FUNDS APPROPRIATED TO THE PRESIDENT									
International Security Assistance									
Foreign military sales credit	D89-11	4,122,750		11-29-88	1,490,000				2,632,750
Economic support fund	D89-01	592,760		09-30-88					
	D89-01A		2,054,000	11-29-88	1,700,254				946,506
Military assistance	D89-12	457,000		11-29-88	291,250				165,750
International military education and training	D89-13	37,400		11-29-88	37,400				0
Agency for International Development									
International disaster assistance	D89-14	18,125		11-29-88	15,164				2,961
Special Assistance for Central America									
Promotion of stability and security in Central America	D89-2	1,000		09-30-88	1,000				0
DEPARTMENT OF AGRICULTURE									
Forest Service									
Expenses, brush disposal	D89-3	144,649		09-30-88	751				143,898
Cooperative work	D89-4	335,263		09-30-88					
	D89-4A		172,737	04-18-89	508,000				0
DEPARTMENT OF DEFENSE - CIVIL									
Wildlife Conservation, Military Reservations									
Wildlife conservation, Defense	D89-5	1,212		09-30-88					
	D89-5A		227	04-18-89					1,439
DEPARTMENT OF ENERGY									
Power Marketing Administration									
Southwestern Power Administration, Operation and maintenance	D89-6	2,800		09-30-88					
	D89-6A		5,600	04-18-89					8,400

Attachment B - Status of Deferrals - Fiscal Year 1989

As of June 1, 1989 Amounts in Thousands of Dollars Agency/Bureau/Account	Deferral Number	Amount Transmitted Original Request	Amount Transmitted Subsequent Change (+)	Date of Message	Cumulative OMB/Agency Releases (-)	Congressionally Required Releases (-)	Congressional Action	Cumulative Adjustments (+)	Amount Deferred as of 6-1-89
DEPARTMENT OF HEALTH AND HUMAN SERVICES									
Social Security Administration									
Limitation on administrative expenses (construction).....	D89-7	6,745		09-30-88					
	D89-7A		80	04-18-89					6,824
DEPARTMENT OF JUSTICE									
Office of Justice Programs									
Crime victims fund.....	D89-8	90,000		09-30-88					
	D89-8A		35,000	04-18-89					125,000
DEPARTMENT OF STATE									
Bureau for Refugee Programs									
United States emergency refugee and migration assistance fund, executive.....	D89-9	26,135		09-30-88					
	D89-9A		27,000	11-29-88	23,492			6,001	35,644
DEPARTMENT OF TRANSPORTATION									
Federal Aviation Administration									
Facilities and equipment (Airport and airway trust fund).....	D89-10	823,608		09-30-88					
	D89-10A		202,084	11-29-88					1,025,692
TOTAL, DEFERRALS.....		6,659,446	2,496,728		4,067,311	0		6,001	5,094,864

[FR Doc. 89-14093 Filed 6-13-89; 8:45 am]
BILLING CODE 3110-01-C

federal register

Wednesday
June 14, 1989

Part IV

Environmental Protection Agency

40 CFR Part 148

Underground Injection Control Program: Hazardous Waste Disposal Injection Restrictions, Additional Effective Dates; First Third Wastes; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 148

[FRL-3556-8]

Underground Injection Control Program: Hazardous Waste Disposal Injection Restrictions, Additional Effective Dates; First Third Wastes

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is today promulgating rules implementing the Congressionally-mandated prohibitions on the underground injection of selected hazardous wastes. This action is being taken in response to amendments to the Resource Conservation and Recovery Act (RCRA) enacted through the Hazardous and Solid Waste Amendments of 1984 (HSWA).

Today's rule sets effective dates for certain wastes prohibited under section 3004(g) of RCRA. The general framework for implementing the land disposal restrictions for injection of hazardous wastes was promulgated on July 26, 1988 (53 FR 28118 *et seq.*). That rule should be consulted for a more thorough explanation of the Agency's rationale concerning the implementation of the land disposal restrictions for hazardous waste injection.

DATE: This final rule is effective June 7, 1989.

ADDRESSES: The official record for this rulemaking is located in Room 1013C East Tower, Office of Drinking Water (WH-550), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, and is available for viewing from 9:30 a.m. to 3:30 p.m., Monday through Friday, excluding legal holidays. The public must make an appointment to review docket materials by calling Eric Callisto at (202) 382-5508.

FOR FURTHER INFORMATION CONTACT: Bruce Kobelski, Office of Drinking Water, EPA, (202) 382-5508.

SUPPLEMENTARY INFORMATION

Preamble Outline

I. Background
A. Statutory Authority
1. Section 3004(f)
2. Section 3004(g)
B. Effect on State UIC Primacy
C. Regulatory Background
II. Summary of Today's Rule—Additional First Third Scheduled Wastes
A. Response to Comments
1. The Applicability of BDAT Treatment Standards to Injected Wastes
2. The Establishment of Effective Dates
B. "First Third" Waste for Which EPA has not Set Treatment Standards, and the Relationship of Today's Final Rule to the January 11, 1989, Proposal (54 FR 1056 *et seq.*) and the May 2, 1989, Final Rule (54 FR 18836 *et seq.*)
C. "First Third" Wastes with Established Treatment Standards which Current Data Indicate are not Being Injected
D. Determination of Available Capacity and Effective Dates for Injected "First Third" Wastes (with Established Treatment Standards) not Addressed on August 16, 1988
1. K016
2. K019
3. K030
4. K103
E. Technical Correction
III. Regulatory Requirements
A. Regulatory Impact Analysis
B. Regulatory Flexibility Analysis
C. Paperwork Reduction Act
IV. References

List of Subjects

I. Background

A. Statutory Authority

The Hazardous and Solid Waste Amendments of 1984 (HSWA), enacted on November 8, 1984, impose substantial new responsibilities on those who handle hazardous waste. The amendments prohibit the continued land disposal of hazardous waste beyond specified dates unless the waste meets or is treated to meet levels established pursuant to RCRA § 3004(m) *or* the Administrator determines that the prohibition is not required in order to protect human health and the environment for as long as the wastes remain hazardous (RCRA sections 3004 (d)(1), (e)(1), (f)(2), (g)(5)). Congress established a separate schedule in § 3004(f) for making determinations regarding the injection of dioxins and solvents and the list of wastes specified in § 3004(d)(2), termed the "California list."

Wastes meeting the treatment standards set by EPA under section 3004(m) of RCRA may be land disposed. The statute requires EPA to set "levels or methods of treatment, if any, which substantially diminish the toxicity of the waste or substantially reduce the likelihood of migration of hazardous constituents from the waste so that short-term and long-term threats to human health and the environment are minimized" (RCRA section 3004(m)(1)).

Land disposal prohibitions are effective immediately upon the statutory or regulatory deadlines unless the Agency sets another effective date based on the earliest date that adequate alternative treatment, recovery, or disposal capacity which is protective of human health and the environment will be available (RCRA sections 3004(h)(1) and (2)). However, these effective date variances may not exceed 2 years beyond the otherwise applicable effective date. In addition, two 1-year, case-by-case extensions of the effective date may be granted under certain circumstances (see 53 FR 28124, July 26, 1988) (RCRA section 3004(h)(3).

For the purposes of the land disposal restrictions program, the statute specifically defines land disposal to include, but not be limited to, any placement of hazardous waste in a landfill, surface impoundment, waste pile, injection well, land treatment facility, salt dome or salt bed formation, or underground mine or cave (RCRA section 3004(k)). The statute also sets forth a series of deadlines for Agency action.

The land disposal prohibitions apply to all hazardous wastes identified or listed under RCRA section 3001 as of November 8, 1984, the date of enactment of HSWA. For any hazardous waste identified or listed under RCRA section 3001 after November 8, 1984, EPA is required to make land disposal restriction determinations within 6 months of the date of identification or listing (RCRA section 3004(g)(4)). However, the statute does not impose an automatic prohibition on land disposal if EPA misses a deadline for any newly listed or newly identified waste.

1. Section 3004(f)

Section 3004(f) addresses the disposal by injection of solvents, dioxins, and California list wastes. Specifically, this section requires the Administrator to promulgate rules prohibiting the disposal of such wastes into wells if it may "reasonably be determined that such disposal may not be protective of human health and the environment for as long as the waste remains hazardous * * *".

2. Section 3004(g)

Section 3004(g) of RCRA applies to all methods of land disposal. It requires the

Agency to set a schedule for making land disposal restriction decisions for all hazardous wastes listed in 40 CFR Part 261 under RCRA section 3001(c) as of November 8, 1984, other than the wastes referred to in sections 3004(d) and (e).

Section 3004(g)(5) provides that the regulations promulgated by the Administrator must prohibit methods of land disposal except methods "which the Administrator determines will be protective of human health and the environment for as long as the wastes remain hazardous * * *".

Furthermore, the section provides that, except for wastes which comply with the standards expressed in section 3004(m), a method of land disposal may not be determined to be protective of human health and the environment, "unless, upon application by an interested person, it has been demonstrated to the Administrator, to a reasonable degree of certainty, that there will be no migration of hazardous constituents from the disposal unit or injection zone for as long as the wastes remain hazardous."

B. Effect on State UIC Primacy

The land disposal restrictions are in effect in all States as a matter of federal law. However, the Agency expects that State agencies which have primacy for the UIC program will wish to implement Part 148, and receive authorization to grant "no migration" exemptions from land disposal restrictions as well as case-by-case extensions under section 3004(h)(3). However, before such authorization can be granted, the State would have to demonstrate that it has the authority to implement sections 3004 (f) and (g) of RCRA, and receive authorization to do so. A thorough discussion of the conditions under which such authorization can take place can be found in 50 FR 28728 *et seq.*, July 15, 1985, 51 FR 40618 *et seq.*, Nov. 7, 1986, and 52 FR 25783 *et seq.*, July 8, 1987. In addition, where jurisdiction for UIC and RCRA do not reside in the same State agency, EPA will require a Memorandum of Understanding between the two entities, clearly outlining responsibility for granting exemptions.

C. Regulatory Background

Hazardous waste disposal has been regulated through two programs: surface disposal through 40 CFR Parts 264, 265, and new Part 268, and underground injection through the UIC Program (40 CFR Parts 144 through 147).

EPA established treatment standards and effective dates for surface disposal of certain hazardous wastes on November 7, 1986 (for certain solvents and dioxins, 51 FR 40572 *et seq.*), July 8, 1987 (for California list wastes, 52 FR 25760), and August 17, 1988 (for certain section 3004(g) wastes, 53 FR 31138 *et seq.*).

On July 26, 1988 (53 FR 28118 *et seq.*), the Agency published Part 148 which established the framework for implementing the HSWA prohibitions for injected wastes, and set effective dates for the ban against the injection of solvents and dioxins. An August 16, 1988, publication set effective dates for the ban against the underground injection of California list wastes as well as certain of the "First Third" wastes (53 FR 30908 *et seq.*). Today's rule was proposed on October 26, 1988 (53 FR 43400 *et seq.*) EPA is today setting effective dates for the ban against the underground injection of the remaining "First Third" wastes for which treatment standards have been finalized.

Often, several waste streams will share a common form of BDAT and, thus, form a treatability group. Biological treatment, for example, is BDAT for several waste codes. Where there is sufficient available treatment capacity in a given treatability group for all types of disposal, EPA will not grant national capacity variances. Where there is insufficient capacity for all types of disposal EPA must allocate or dedicate certain waste streams to the available capacity and may grant capacity variances for the others.

The allocation decisions have the short term effect of delaying an effective prohibition date for certain waste streams for up to two years. At the end of that time, all waste streams will be subject to the land disposal prohibitions. In view of this short time frame and the limited resources, the Agency has not developed sophisticated analyses to apportion treatment demand to the limited treatment capacity.

In previous rules the Agency has used a tiered hierarchy that apportions available treatment capacity first to surface disposal units, then to CERCLA remedial actions and RCRA section 3004(u) corrective actions, and finally to UIC facilities (52 FR 32450, August 27, 1987, and 53 FR 30908 *et seq.*, August 16, 1988). Parts of this decision rule are not a basis for today's rulemaking in light of recent regulatory actions and policy decisions. On February 27, 1989, the Agency amended the land disposal schedule to place in the "Third Third" of the schedule all multi-source leachate that is derived from hazardous wastes (other than dioxin-containing wastes) (54 FR 8264 *et seq.*). This decision effectively removes many CERCLA/RCRA cleanup wastes from consideration in the above hierarchy until May 8, 1990, as many of these wastes are multi-source leachate.

Moreover, the Agency has banned the underground injection of wastes in instances where these wastes place little demand on available capacity. This decision is consistent with the purposes of the allocation scheme since such small volumes will not affect the availability of capacity for surface disposal or RCRA or CERCLA cleanups. This approach is also consistent with Congressional intent in expediently moving industry away from disposal and towards treatment.

Finally, the Agency believes the hierarchy is most appropriately used in situations where large volumes of waste are competing for a limited amount of treatment capacity on a nationwide basis. Today's rule bans the underground injection of a number of low-volume (less than 200,000 gallons injected/year) wastes that are injected at only a few facilities. EPA believes that the availability of truck and rail transportation to move these wastes to treatment facilities, the ability of industry to provide on-site tanks for treatment, and the options for managing treatment residuals for these wastes do not limit industry's ability to treat these relatively low volumes.

II. Summary of Today's Rule—Additional First Third Scheduled Wastes

A. Response to Comments

Only five commenters responded to the call for public comment of today's rule. Most of them supported the determinations made in the proposal. Specific comments were made on certain of the Agency's proposed effective dates and to the applicability of established treatment standards to injected wastes. These concerns are addressed below.

1. The Applicability of BDAT Treatment Standards to Injected Wastes

Two commenters discussed their concerns with the Agency's approach to leachate. In particular, they were concerned that (1) leachate may be physically and chemically unique from process generated waste and, therefore, require separate regulatory treatment, and (2) the Agency has not properly accounted for the impact on treatment capacity of banning leachate derived from given waste codes.

In general, EPA believes these comments may have some merit, and published a final rule at 54 FR 8264 (February 27, 1989) which reschedules multi-source leachate that is derived

from hazardous wastes into the "Third Third" of the schedule described in section 3004(g)(4)(C) of RCRA. Thus, the Agency agreed that leachate may be physically and chemically unique from process generated waste and, therefore, require separate regulatory treatment.

The regulatory decision and rationale are described in the above **Federal Register** notice. The effect of that February 27 rule is that effective dates established in today's rulemaking do not apply to disposal of most multi-source leachate. Most of the leachate described by the commenters is multi-source and, thus, the negligible amount of single source leachate banned by today's rule will have a minimal effect on demand for treatment capacity.

One commenter requested that the Agency not set effective dates for the ban against the underground injection of K015 nonwastewaters, as they believe the BDAT treatment level for that waste is not achievable using the treatment standard promulgated on August 17, 1988 (53 FR 31154). That BDAT treatment standard ("No Land Disposal Based on No Ash") was rescinded for K015 nonwastewaters on May 2, 1989 (54 FR 18836 et seq.; see Section (II)(B) of today's preamble). As a result, K015 nonwastewaters are under the effect of the section 3004(g) "soft hammer". EPA is unable to set effective dates for a listed waste in the absence of an established treatment standard. Consequently, the Agency defers action on K015 nonwastewaters until May 8, 1990, or until a treatment standard is set for this waste code, whichever comes first.

2. The Establishment of Effective Dates

One commenter stated that EPA is failing to distinguish between methods of land disposal in promulgating these regulations. The Agency disagrees with this contention, noting that promulgated and proposed regulatory actions specifically delineate between surface and deep well disposal with regard to certain effective dates.

Specifically, the Agency is apportioning available treatment capacity to surface units before injection wells. This decision rule, which clearly distinguishes between methods of land disposal, often results in the establishment of different ban effective dates, based on type of disposal, within a waste code. For example, today's rule grants a 2-year treatment capacity variance to the 118 million gallons of dilute K016 wastes which are annually underground injected. This same waste was banned from surface disposal on August 8, 1988, as the available treatment capacity was adequate to handle the dilute K016 being disposed in landfills and surface impoundments.

It is true that the Agency is setting the same effective date for all types of disposal for certain wastes. Such determinations are made in the context of the above hierarchy and in situations where the amount of available treatment capacity is adequate to accommodate *all* of the subject waste that is land disposed or, conversely, *none* of the waste that is land disposed. EPA believes that such decisions are both consistent with the intent of HSWA and protective of human health and the environment.

Another commenter noted that the preamble language at 53 FR 43405 seemed to ban absolutely the underground injection of the wastes listed in Table 2 (i.e., "First Third" Wastes With Established Treatment Standards Which Current Data Indicate Are Not Being Injected). It is EPA's intent to ban the underground injection of hazardous waste that do not meet the BDAT treatment standards and, while the proposed regulatory language explicitly stated this, today's preamble language has been changed to clearly indicate this intent. These wastes may continue to be underground injected if the wastes are treated to meet the BDAT standard or if a demonstration of "no mitigation" and the attendant requirements of the UIC program are met.

Several commenters stated that EPA's use of the term "soft hammer" as applied to UIC wells was misleading or incorrect. Moreover, they argued that any national capacity variances for injection wells should begin on May 8, 1990, or an earlier date which EPA may set by regulation after promulgation of a BDAT standard and a decision on the availability of national protective treatment or disposal capacity for that waste. EPA now agrees with this latter position. Under section 3004(h)(2), EPA "may establish an effective date different from the effective date which would otherwise apply under subsection (d), (e), (f), or (g) * * *" given certain findings concerning national treatment or disposal capacity. "Any such other effective date shall in no event be later than 2 years after the effective date of the prohibition which would otherwise apply under subsection (d), (e), (f), or (g)." (RCRA section 3004(h)(2))

Section 3004(g)(5) requires EPA to prohibit one or more methods of land disposal of the hazardous wastes listed in the section 3004(g)(4) schedule, except for methods of land disposal which the Administrator determines will be protective of human health and the environment as defined by the standards in section 3004(g)(5). The schedule in section 3004(g)(4) divides wastes into thirds.

Section 3004(g)(6) describes what happens where EPA fails to promulgate effective dates on the schedule. If EPA has not promulgated effective dates by August 8, 1988, for the "First Third" wastes, disposal into landfills and surface impoundments is subject to the special restrictions in section 3004(g)(6)(A). There are no statutory prohibitions for disposal of wastes under section 3004(g) into UIC wells until May 8, 1990. *See* RCRA section 3004(g)(6)(C). This same framework is true for wastes in the "Second Third" where EPA has failed to promulgate regulatory prohibitions by June 8, 1989.

Thus, for UIC well operators, the "effective date that would otherwise apply" under section 3004(g) for purposes of section 3004(h)(2) is May 8, 1990, unless EPA sets an earlier effective date. Under section 3004(m) EPA may not set an earlier effective date for a waste unless the Agency has established a treatment standard under section 3004(m) for that waste. EPA intends to promulgate prohibitions by May 8, 1990, as it develops section 3004(m) standards and makes decisions on available treatment or disposal capacity.

The policy considerations underlying section 3004(h) support this interpretation. Congress provided a maximum variance of 2 years for treatment or disposal capacity to develop and for operations to adjust to any lack of capacity that will exist after two years. These business decisions can only be reasonably made after the Agency has set treatment standards for the waste and evaluated available treatment and disposal capacity. Thus, the maximum national capacity variance for the injection of dilute K016, for example, is in effect for two years from the effective date of this rule and not two years from August 8, 1988. That August 8, 1988 date only affects restrictions on disposal of wastes to surface impoundments and landfills, not UIC wells.

The effective date of the prohibition on the underground injection of dilute K016 is the only change from the proposal based on this Agency interpretation. EPA may examine the application of section 3004(g) and section 3004(h)(2) to surface disposal units in the "Second Thirds" final rulemaking. See proposal at 54 FR 1056 et seq. (January 11, 1989).

One commenter believes that the Agency should defer any action on effective dates for injection wells until

May 8, 1990, arguing that EPA must first make site-specific determinations of protectiveness before banning underground injection. RCRA section 3004(g)(5) mandates that the Agency shall prohibit land disposal of the "First Third" of scheduled wastes "* * * except for methods of disposal which the Administrator determines will be protective of human health and the environment * * *". EPA believes this requires that the Agency ban such disposal *unless* protection is shown. The Agency is in the process of determining which injection sites will be protective of human health and the environment. Until successful petitions pursuant to Part 148 have been demonstrated, EPA believes the most prudent and environmentally sound action is to ban the underground injection of wastes unable to meet the BDAT treatment standards. As a practical matter, treatment capacity variances have been granted for a number of the large volume waste streams that are currently underground injected, thereby alleviating any short-term dislocation for industry.

B. "First Third" Waste for Which EPA Has Not Set Treatment Standards, and the Relationship of Today's Final Rule to the January 11, 1989, Proposal (54 FR 1056 et seq.) and the May 2, 1989, Final Rule (54 FR 18836 et seq.)

On January 11, 1989, EPA proposed treatment standards and effective dates for certain "First Third", "Second Third", and "Third Third" wastes (54 *FR* 1056 *et seq.*). "First Third" wastes addressed in the January proposal are marked with an asterisk in Table 1 below. The wastes in Table 1 are not prohibited from land disposal by this regulation, but may be affected by rulemaking in the very near future.

In the October 26, 1988, proposal to this rule, EPA proposed to ban the underground injection of K004 nonwastewaters and K008 nonwastewaters. The Agency had previously set a BDAT treatment standard of "No Land Disposal Based on No Generation" for these wastes (53 *FR* 31138 *et seq.*, August 17, 1988). The January 11, 1989, proposal, however, proposed to change the BDAT treatment standards for these waste codes. To fully consider these changes, EPA is deferring setting an underground injection effective date in this final rule for these wastes and will make a determination concerning these wastes in the final rule to the January 11, 1989, proposal.

On May 2, 1989 (54 *FR* 18836 *et seq.*), the Agency revised BDAT treatment standard determinations for the nonwastewater forms of the following ten wastes: (K004, K008, K015, K021, K025, K036, K060, K069, K083, and K100). EPA had originally set BDAT for these wastes as "No Land Disposal" based on either "no generation", "reactivity", "recycling", or "no ash" (see *FR* 31138 *et seq.*, August 17, 1988). The May 2, 1989, rule narrows the set of wastes subject to the "No Land Disposal" BDAT. The new subset subject to this BDAT includes only nonwastewater forms of these wastes which are generated by the process described in the waste listing description and disposed after August 17, 1988. The current BDAT treatment standards, do not, however, apply to nonwastewater forms of these wastes which are generated in the course of treating wastewater forms of these wastes. Today's final rule sets effective dates only for the subset of these waste forms within the scope of the current BDAT treatment standards. For K004 nonwastewaters and K008 nonwastewaters, the Agency is not setting effective dates for the reasons discussed in the beginning of this section.

Table 1.—"First Third" Wastes for Which no Treatment Standards Have Been Established

*F006 wastewaters—The wastewater component of treatment sludges from electroplating operations except from the following processes: (1) Sulfuric acid anodizing of aluminum; (2) tin plating on carbon steel; (3) zinc plating (segregated basis) on carbon steel; (4) aluminum or zinc-aluminum plating on carbon steel; (5) cleaning/stripping associated with tin, zinc and aluminum plating on carbon steel; and (6) chemical etching and milling of aluminum. (NOTE: The Agency *has* established a treatment standard for the nonwastewater component of the F006 waste category. See Section (II)(C) of today's preamble.)

*F007—Spent cyanide plating bath solutions from electroplating operations.

*F008—Plating bath sludges from the bottom of plating baths from the electroplating operations where cyanides are used in the process.

*F009—Spent stripping and cleaning bath solutions from electroplating operations where cyanides are used in the process.

*F019—Wastewater treatment sludges from the chemical conversion coating of aluminum.

K004 wastewaters—The wastewater component of treatment sludge from the production of zinc yellow pigments. (NOTE: The Agency *has* established a treatment standard for *some* of the nonwastewater components of the K004 waste category. See Section (II)(C) of today's preamble.)

K008 wastewaters—The wastewater component of oven residue from the production of chrome oxide green pigments. (NOTE: The Agency *has* established a treatment standard for *some* of the nonwastewater components of the K008 waste category. See Section (II)(C) of today's preamble.)

*K011—Bottom stream from the wastewater stripper in the production of acrylonitrile.

*K013—Bottom stream from the acetonitrile column in the production of acrylonitrile.

*K014—Bottoms from the acetonitrile purification column in the production of acrylonitrile.

K015 nonwastewaters—The nonwastewater component of still bottoms from the distillation of benzyl chloride. (NOTE: The Agency *has* established a treatment standard for the wastewater component of the K015 waste category. See Section (II)(C) of today's preamble.)

K017—Heavy ends (still bottoms) from the purification column in the production of epichlorohydrin.

K021 wastewaters—The wastewater component of aqueous spent antimony catalyst waste from fluoromethanes production. (NOTE: The Agency *has* established a treatment standard for *some* of the nonwastewater components of the K021 waste category. See Section (II)(C) of today's preamble.)

K022 wastewaters—The wastewater component of distillation bottom tars from the production of phenol/acetone from cumane. (NOTE: The Agency *has* established a treatment standard for the nonwastewater components of the K022 waste category. See Section (II)(C) of today's preamble.)

K031—By-product salts generated in the production of MSMA (monosodium methanearsenate and cacodylic acid).

K035—Wastewater treatment sludges generated in the production of creosote.

*K036 wastewaters—The wastewater component of still bottoms from toluene reclamation distillation in the production of disulfoton. (NOTE: The Agency *has* established a treatment standard for *some* of the nonwastewater components of the K036 waste category. See Section (II)(C) of today's preamble.)

K046 wastewaters and explosive nonwastewaters—Both the explosive nonwastewater component and all wastewater components of treatment sludges from the manufacturing, formulation, and loading of lead-based initiating compounds. (NOTE: The Agency *has* established a treatment standard for the nonexplosive nonwastewater components of the K046 waste category. See Section (II)(C) of today's preamble.)

K060 wastewaters—The wastewater component of ammonia still lime sludge from coking operations. (NOTE: The Agency *has* established a treatment standard for *some* of the nonwastewater components of the K060 waste category. See Section (II)(C) of today's preamble.)

K061 wastewaters—The wastewater component of emission control dust/sludge from the primary production of steel in electric furnaces. (NOTE: The Agency *has* established a treatment standard for the nonwastewater component of the K061 waste category. See Section (II)(C) of today's preamble.)

K069 wastewaters and calcium sulfate nonwastewaters—All wastewaters, and the calcium sulfate nonwastewater component of emission control dust/sludge from secondary lead smelting. (NOTE: The Agency *has* established a treatment standard for *some* of the noncalcium sulfate nonwastewater components of the K069 waste category. See Section (II)(C) of today's preamble.)

K073—Chlorinated hydrocarbon waste from the purification step of the diaphragm cell process using graphite anodes.

K083—Distillation bottoms from aniline production.

K084—Wastewater treatment sludges generated during the production of veterinary pharmaceuticals from arsenic or organo-arsenic compounds.

K085—Distillation or fractionation column bottoms from the production of chlorobenzenes.

K086—Solvent sludges, caustic washes and sludges, or water washes and sludges from cleaning tubs and equipment used in the formulation of ink from pigments, driers, soaps, and stabilizers containing chromium and lead. (NOTE: The Agency *has* established a treatment standard for K086 solvent washes. See Section (II)(C) of today's preamble.)

K106—Wastewater treatment sludge from the mercury cell process in chlorine production.

P and U wastes—All remaining "First Third" chemical specific wastes originally listed under §§ 261.33 (e) and (f) (i.e., those beginning with a "U" or a "P" (**Note:** A treatment standard has been *proposed* for P030, P039, P041, P063, P071, P089, P094, P097, U221, and U223. Until BDAT is finalized these wastes remain under the effect of the "soft hammer").

* "First Third" waste addressed in January 11, 1989 proposal.

C. "First Third" Wastes with Established Treatment Standards which Current Data Indicate are Not Being Injected

The RCRA section 3004(g) "First Third" wastes listed in Table 2 below are "First Third" wastes with established BDAT standards which current data indicates are not being injected. (Refs. 1 and 2) (**Note:** Included in Table 2 are K025 nonwastewaters and K100 nonwastewaters. Originally "Second Third" and "Third Third" wastes, respectively, these wastes have established treatment standards and as such are being addressed along with the "First Third" wastes.) Treatment standards were established for these wastes on August 17, 1988 (53 FR 31138 et seq.) (or revised on May 2, 1989 (54 FR 18836 et seq.)). Restricting the injection of these waste would have a negligible effect on the availability of treatment capacity. Therefore, EPA is banning the underground injection of these wastes on June 7, 1989, unless they are able to meet the BDAT treatment standards. The Agency believes these decisions will have no effect on the remaining national capacity available to treat RCRA/CERCLA remedial actions requiring the type of BDAT treatment associated with these wastes.

Table 2.—"First Third" Wastes With Established Treatment Standards Which Current Data Indicate Are Not Being Injected

F006 nonwastewaters—The nonwastewater component of treatment sludges from certain electroplating operations. (NOTE: The Agency *has not* established a treatment standard for F006 wastewaters. See Section (II)(B) of today's preamble.)

K001—Bottom sediment sludge from the treatment of wastewaters from wood preserving processes that use creosote and/or pentachlorophenol.

K015 Wastewaters—The wastewater component of still bottoms from the distillation of benzyl chloride. (NOTE: On May 2, 1989, the Agency rescheduled K015 nonwastewaters to the Third Third. See Section (II)(B) of today's preamble.)

K018—Heavy ends from the fractionation column in ethyl chloride production

K020—Heavy ends from the distillation of vinyl chloride in vinyl chloride monomer production.

†K021 nonwastewaters—The nonwastewater component of aqueous spent antimony catalyst waste from fluoromethanes production. (**Note:** The Agency *has not* established a treatment standard for K021 wastewaters. See Section (II)(B) of today's preamble.)

K022 nonwastewaters—The nonwastewater component of distillation bottom tars from the production of phenol/acetone from cumane. (**Note:** The Agency *has not* established a treatment standard for K022 wastewaters. See Section (II)(B) of today's preamble.)

K024—Distillation bottoms from the production of phthalic anhydride from naphthalene.

†K025 nonwastewaters—The nonwastewater component of distillation bottoms from the production of nitrobenzene by the nitration of benzene. (**Note:** The Agency established a treatment standard for K025 nonwastewaters, originally listed with the "Second Third" wastes, on August 17, 1988. This determination was revised on May 2, 1989. The Agency *has not* established a treatment standard for K025 wastewaters. As such, K025 wastewaters remain a "Second Third" waste, and will be addressed at a later date.)

†K036 nonwastewaters—The nonwastewater component of still bottoms from toluene reclamation distillation in the production of disulfoton. (**Note:** The Agency *has not* established a treatment standard for K036 wastewaters. See Section (II)(B) of today's preamble.)

K037—Wastewater treatment sludge from the production of disulfoton.

K044—Wastewater treatment sludges from the manufacturing and processing of explosives.

K045—Spent carbon from the treatment of wastewater containing explosives.

K046 nonexplosive nonwastewaters—The nonexplosive nonwastewater component of treatment sludges from the manufacturing, formulation, and loading of lead-based initiating compounds. (**Note:** The Agency *has not* established a treatment standard for K046 wastewaters and the explosive nonwastewater component of the K046 waste category. See Section (II)(B) of today's preamble.)

K047—Pink/red water from TNT operations.

K048—Dissolved air flotation (DAF) float from the petroleum refining industry.

†K060 nonwastewaters—The nonwastewater component of ammonia still lime sludge from coking operations. (**Note:** The Agency *has not* established a treatment standard for K060 wastewaters. See Section (II)(B) of today's preamble.)

K061 nonwastewaters—The nonwastewater component of emission control dust/sludge from the primary production of steel in electric furnaces. (**Note:** The Agency *has not* established a treatment standard for K061 wastewaters. See Section (II)(B) of today's preamble.)

†K069 noncalcium sulfate nonwastewaters—The noncalcium sulfate nonwastewater component of emission control dust/sludge from secondary lead smelting. (**Note:** The Agency *has not* established a treatment standard for K069 wastewaters and the calcium sulfate nonwastewater component of the K069 waste category. See Section (II)(B) of today's preamble.)

K086 solvent washes—Solvent washes from cleaning tubs and equipment used in the formulation of ink from pigments, driers, soaps, and stabilizers containing chromium and lead. (**Note:** The Agency *has not* established a treatment standard for K086 solvent sludges, caustic washes and sludges, or water washes and

sludges. See Section (II)(B) of today's preamble.)

K087—Decanter tar sludge from coking operations.

K099—Untreated wastewater from the production of 2, 4–D.

†K100 nonwastewaters—The nonwastewater component of waste leaching solution from acid leaching of emission control dust/sludge from secondary lead smelting. (Note: The Agency established a treatment standard for K100 nonwastewaters, originally listed with the "Third Third" wastes, on August 17, 1988. This determination was revised on May 2, 1989. The Agency *has not* established a treatment standard for K100 wastewaters. As such, K100 wastewaters remain a "Third Third" waste, and will be addressed at a later date.)

K101—Distillation tar residues from the distillation of aniline-based compounds in the production of veterinary pharmaceuticals from arsenic or organo-arsenic compounds.

K102—Residue from the use of activated carbon for declorization in the production of veterinary pharmaceuticals from arsenic or organo-arsenic compounds.

† A BDAT treatment standard has been established only for the subset of these wastes which are generated by the process described in the waste listing description and disposed after August 17, 1988. The established BDAT does not apply to nonwastewater forms of these wastes which are generated in the course of treating wastewater forms of these wastes (see generally 54 *FR* 18836 *et seq.*, May 2, 1989, and Section (II)(B) of today's preamble). As such, the ban dates established for these waste codes in today's rule apply only to the subset of wastes within the scope of the BDAT treatment standards established on May 2, 1989.

D. Determination of Available Capacity and Effective Dates for Injected "First Third" Wastes (with Established Treatment Standards Not Addressed on August 16, 1988

Table 3 summarizes the effective dates for the ban against the underground injection of certain "First Third" wastes. This table lists only those "First Third" wastes with established treatment standards for which underground injection effective ban dates were not promulgated on August 16, 1988, and which are injected. The Agency believes these decisions will have no effect on the remaining national capacity available to treat RCRA/CERCLA remedial actions requiring the type of treatment associated with these wastes. Discussions of all wastes addressed in Table 3 follow.

TABLE 3.—INJECTED "FIRST THIRD" WASTES (WITH ESTABLISHED TREATMENT STANDARDS) NOT ADDRESSED ON AUGUST 16

RCRA waste code	Effective date proposed on October 26, 1988	Effective date in final rule
K016	Dilute K016 (<1%)—variance until 8/8/90;.	variance until June 7, 1991.
	Concentrated K016 (≧1%)—date of final promulgation of that proposal.	June 7, 1989.
K019	Date of final promulgation of that proposal.	June 7, 1989.
K030	Date of final promulgation of that proposal.	June 7, 1989.
K103	Date of final promulgation of that proposal.	June 7, 1989.

1. K016

Wastes categorized as K016 consist of heavy ends or distillation residues from the production of certain halogenated hydrocarbons. The Treatment, Storage, Disposal, and Recovery (TSDR) Survey (Ref. 2) identified 118 million gallons of injected, dilute (<1%) K016 wastes with an identified BDAT treatment standard of wastewater treatment consisting of biological treatment followed by wet air oxidation. The survey also indicated that 170,000 gallons of K016 may be injected at concentrations equal to or greater than 1%. BDAT for these K016 wastes (≧1%) would be liquid combustion ((Ref. 2).

The Agency has determined that there is 72 million gallons of available capacity for the treatment train applicable to injected, dilute K016 waste. Similarly, 246 million gallons of available capacity have been identified for injected wastes utilizing liquid combustion as treatment. As indicated earlier in the preamble, the Agency has decided to grant a 2-year variance not from August 8, 1988, as proposed, but rather from the effective date of this rule. EPA, therefore, is today granting a variance to dilute (<1%) K016, and banning its injection on June 7, 1991. The injection of concentrated (≧1%) K016, unless it meets or is treated to meet the BDAT treatment standards, is banned on June 7, 1989. (The determination as to whether a wastewater contains less than 1% K016 is to be made at the point of initial generation prior to any treatment, i.e., when the waste first meets the K016 listing description.)

2. K019

This waste stream is composed of heavy ends and distillation residues generated in the production of ethylene dichloride. The TSDR Survey has identified only 65,000 gallons of this relatively dilute waste that are being injected. The most appropriate treatment for this waste would be wastewater treatment based on biological degradation (Ref. 2). As mentioned above, the survey shows an alternative capacity of 72 million gallons for injected wastes amenable to this type of treatment. Because the Agency has identified adequate capacity for this particular waste stream, EPA is promulgating the effective date as proposed, prohibiting the underground injection of K019 wastes not meeting the BDAT treatment standards on June 7, 1989.

3. K030

This waste is generated in the production of trichloroethylene and perchloroethylene and consists of column bottoms and heavy ends. As with K019, the injected waste is dilute and is best treated by wastewater treatment based on biological degradation. As noted above, EPA has identified 72 million gallons of such treatment capacity for injected wastes. The survey shows less than 30,000 gallons of this waste being injected. The Agency believes that the information gathered from the survey shows sufficient capacity to treat this waste, and is therefore promulgating the effective date as proposed and banning the underground injection of K030 waste, unless it meets or is treated to meet the BDAT treatment standards, on June 7, 1989.

4. K103

This waste stream consists of residues from the production of analine. The TSDR Survey indicates that 31,560 gallons of K103 are being injected each year (Ref. 2). The Agency believes that this waste is relatively concentrated. The specified BDAT for K103 is liquid combustion, which shows an available capacity of 246 million gallons for injected wastes. Based on this information, the Agency is banning the underground injection of such wastes, unless they meet or are treated to meet the BDAT treatment standards, on June 7, 1989.

E. Technical Correction

On July 26, 1988, the Agency set effective dates for the ban against the underground injection of solvents and dioxins. Included in the Part 148

language that established these bans was language referencing § 268.44, the regulatory section which allows for treatability variances (§ 148.10(c)(4) and § 148.11(b)(4)). EPA is today deleting these two provisions, and replacing them with language that would achieve the equivalent result in § 148.10(c)(1) and § 148.11(b)(1) ("* * * if the wastes meet or are treated to meet the applicable standards specified in Subpart D of Part 268 * * *).

The Agency is recodifying § 148.14 in order to make the waste-specific effective dates appear in chronological order. This recodification is included to enhance clarity and does not affect the decisions made on August 16, 1988, for K049–52, K062, K071, and K104 wastes, nor does it open these decisions for public comment.

III. Regulatory Requirements

A. Regulatory Impact Analysis

Executive Order 12291 requires EPA to assess the effect of contemplated Agency actions during the development of regulations. Such an assessment consists of a quantification of the potential benefits and costs of the rule, as well as a description of any beneficial or adverse effects that cannot be quantified in monetary terms. In addition, Executive Order 12291 requires that regulatory agencies prepare an analysis of the regulatory impact of major rules. Major rules are defined as those likely to result in:

1. An annual cost to the economy of $100 million or more; or

2. A major increase in costs or prices for consumers or individual industries; or

3. Significant adverse effects on competition, employment, investment, innovation or international trade.

The Agency has performed an analysis of the regulation to assess the economic effect of associated compliance costs for the "First Third" list wastes (Ref. 3). Total compliance costs of the entire "First Third" list regulations (i.e., those finalized today, those finalized on August 16, 1988, and those for which treatment standards have not yet been defined) are estimated at $28.5 million, or $6.2 million annualized. Alternate treatment costs are estimated to total $25.75 million ($6.0 million annualized), and petition costs are estimated to be $2.75 million ($0.20 million annualized). These costs indicate that this rule does not constitute a major rule under Executive Order 12291.

B. Regulatory Flexibility Analysis

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, whenever an agency publishes a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions). This analysis is unnecessary, however, if the agency's administrator certifies that the rule will not have significant economic effect on a substantial number of small entities.

Owners and operators of hazardous waste injection wells are generally major chemical, petrochemical and other manufacturing companies. The Agency is not aware of any small entities that would be affected by this rule. Part 148.1(c)(3) of the regulatory framework for this rule exempts any small quantity generator, as defined in § 261.5, from the underground injection prohibitions established in that framework. The Administrator certifies that this rule will not have significant economic effects on a substantial number of small entities. As a result of this finding EPA has not prepared a formal Regulatory Flexibility Analysis.

C. Paperwork Reduction Act

The information collection requirements in this rule have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act, (44 U.S.C. 3501 *et seq.*) and have been assigned OMB control number 2040–0042.

Public reporting burden for this collection of information is estimated to average 290 hours per respondent, including time for reviewing instructions, searching existing data sources, gathering and maintaining the date needed, and completing and reviewing the collection of information.

Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Chief, Information Policy Branch, PM–223, U.S. Environmental Protection Agency, 401 M St. SW., Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, marked "Attention: Desk Officer for EPA."

IV. References

(1) Findings on Class I Hazardous Wells Affected by the Land Ban Rules; Temple, Barker and Sloane, December, 1987.

(2) Background Document for First Third Wastes to Support 40 CFR Part 268 Land Disposal Restrictions, Final Rule, First Third Waste Volumes, Characteristics, and Required and Available Treatment Capacity—Part II; U.S. EPA, OSW, August 1988.

(3) Regulatory Impact Analysis of Proposed Hazardous Waste Disposal Restrictions for Class I Injection of First Thirds List Waste; EPA Report, Contract No. 68–03–3348, Cadmus Group, Inc., October 1987.

List of Subjects in 40 CFR Part 148

Administrative practice and procedure, Confidential business information, Environmental protection, Hazardous materials, Hazardous materials transportation, Hazardous waste, Intergovernmental relations, Reporting and recordkeeping requirements, Waste treatment and disposal, Water supply, Water pollution control.

Dated: June 7, 1989.

William K. Reilly,

Administrator.

Therefore Chapter I of Title 40 is amended as follows:

PART 148—HAZARDOUS WASTE INJECTION RESTRICTIONS

1. The authority citation for Part 148 continues to read as follows:

Authority: Section 3004, Resource Conservation and Recovery Act, 42 U.S.C. 6901 *et seq.*

2. In § 148.10, paragraph (c)(4) is removed and paragraphs (c)(1) and (c)(3) are revised to read as follows:

§ 148.10 Waste specific prohibitions—solvent wastes.

* * * * *

(c) * * *

(1) If the wastes meet or are treated to meet the applicable standards specified in Subpart D of Part 268; or

* * * * *

(3) During the period of extension of the applicable effective date, if an extension has been granted under § 148.4 of this part.

* * * * *

3. In § 148.11, paragraph (b)(4) is removed and paragraphs (b)(1) and (b)(3) are revised to read as follows:

§ 148.11 Waste specific prohibitions—dioxin-containing wastes.

* * * * *

(b) * * *

(1) If the wastes meet or are treated to meet the applicable standards specified in Subpart D of Part 268; or

* * * * *

(3) During the period of extension of the applicable effective date, if an extension has been granted under § 148.4 of this part.

4. Section 148.14 is revised to read as follows:

§ 148.14 Waste specific prohibitions—first third wastes.

(a) Effective June 7, 1989, the wastes specified in 40 CFR 261.31 as EPA Hazardous Waste numbers F006 (nonwastewaters) and the wastes specified in 40 CFR 261.32 as EPA Hazardous Waste numbers K001, K015 (wastewaters), K016 (at concentrations greater than or equal to 1%), K018, K019, K020, K021 (nonwastewaters generated by the process described in the waste listing description and disposed after August 17, 1988, and not generated in the course of treating wastewater forms of these wastes), K022 (nonwastewaters), K024, K030, K036 (nonwastewaters generated by the process described in the waste listing description and disposed after August 17, 1988, and not generated in the course of treating wastewater forms of these wastes), K037, K044, K045, nonexplosive K046 (nonwastewaters), K047, K048, K060 (nonwastewaters generated by the process described in the waste listing description and disposed after August 17, 1988, and not generated in the course of treating wastewater forms of these wastes), K061 (nonwastewaters), noncalcium sulfate K069 (nonwastewaters generated by the process described in the waste listing description and disposed after August 17, 1988, and not generated in the course of treating wastewater forms of these wastes), K086 solvent washes, K087, K099, K101, K102, and K103 are prohibited from underground injection.

(b) Effective August 8, 1990, the wastes specified in 40 CFR 261.32 as EPA Hazardous Waste numbers K049, K050, K051, K052, K062, K071, and K104 are prohibited from underground injection.

(c) Effective June 7, 1991, the wastes specified in 40 CFR 261.32 as EPA Hazardous Waste numbers K016 (at concentrations less than 1%) are prohibited from underground injection.

(d) The requirements of paragraphs (a), (b), and (c) of this section do not apply:

(1) If the wastes meet or are treated to meet the applicable standards specified in Subpart D of Part 268; or

(2) If an exemption from a prohibition has been granted in response to a petition under Subpart C of this Part; or

(3) During the period of extension of the applicable effective date, if an extension has been granted under § 148.4 of this Part.

5. Section 148.15 is added to Subpart B to read as follows:

§ 148.15 Waste specific prohibitions—second third wastes.

(a) Effective June 7, 1989, the wastes specified in 40 CFR 261.32 as EPA Hazardous Waste numbers K025 (nonwastewaters generated by the process described in the waste listing description and disposed after August 17, 1988, and not generated in the course of treating wastewater forms of these wastes) are prohibited from underground injection.

(b) The requirements of paragraph (a) of this section do not apply:

(1) If the wastes meet or are treated to meet the applicable standards specified in Subpart D of Part 268; or

(2) If an exemption from a prohibition has been granted in response to a petition under Subpart C of this Part; or

(3) During the period of extension of the applicable effective date, if an extension has been granted under § 148.4 of this Part.

6. Section 148.16 is added to Subpart B to read as follows:

§ 148.16 Waste specific prohibitions—third third wastes.

(a) Effective June 7, 1989, the wastes specified in 40 CFR 261.32 as EPA Hazardous Waste numbers K100 (nonwastewaters generated by the process described in the waste listing description and disposed after August 17, 1988, and not generated in the course of treating wastewater forms of these wastes) are prohibited from underground injection.

(b) The requirements of paragraphs (a) of this section do not apply:

(1) If the wastes meet or are treated to meet the applicable standards specified in Subpart D of Part 268; or

(2) If an exemption from a prohibition has been granted in response to a petition under Subpart C of this Part; or

(3) During the period of extension of the applicable effective date, if an extension has been granted under § 148.4 of this Part.

[FR Doc. 89-14080 Filed 6-13-89; 8:45 am]

BILLING CODE 6560-50-M

federal register

Wednesday
June 14, 1989

Part V

Department of Housing and Urban Development

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

Fund Availability for Section 8 Existing Housing Certificate Program for Operation Bootstrap and Submission of Proposed Information Collection to OMB; Notices

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. N-89-2001; FR-2667]

Fund Availability for Section 8 Existing Housing Certificate Program for Operation Bootstrap

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

ACTION: Notice of fund availability for Public Housing Agencies (PHAs) to participate in Operation Bootstrap.

SUMMARY: HUD is announcing the availability of Section 8 Certificates for PHAs wishing to participate in Operation Bootstrap. The Department is interested in encouraging communities to develop and implement innovative programs to enable unemployed or underemployed members of families to become economically independent through the cooperative efforts of the public and private sectors. Section 8 Existing Housing Certificates will be awarded to PHAs selected to participate in Operation Bootstrap.

DATE: Applications for participation must be received by the local Field Office (Attention: Operation Bootstrap) by 4:00 p.m. local time on August 4, 1989. After review and approval of this program's information collection requirements by the Office of Management and Budget, HUD will announce, by separate **Federal Register** notice, details for submission of applications.

FOR FURTHER INFORMATION CONTACT: Lawrence Goldberger, Director, Office of Elderly and Assisted Housing, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410-8000, telephone (202) 755-5720. Hearing- or speech-impaired individuals may call HUD's TDD number (202) 426-0015. (These telephone numbers are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: The collection of information requirements for Operation Bootstrap have been submitted to the Office of Management and Budget (OMB) for expedited review under section 3504(h) of the Paperwork Reduction Act of 1980. Expedited review has been requested by June 21, 1989, so that the application process described in a separate Notice published in today's **Federal Register** may be carried out after approval of the described collections of information. No person may be subjected to a penalty for failure to comply with these information collection requirements until they have been approved and assigned an OMB control number. The OMB control number, when assigned, will be announced by separate notice in the **Federal Register.**

I. Introduction

"Operation Bootstrap" is an initiative by HUD to encourage communities to develop and implement innovative programs to aid unemployed or underemployed members of low-income families to become economically independent through the cooperation efforts of the public and private sectors. The Department is initiating Operation Bootstrap to coordinate services to low-income families motivated to achieve economic independence, in conjunction with other Departmental goals.

Operation Bootstrap builds upon the Department's successful Project Self-Sufficiency demonstrations in 1984 and 1985, which confirmed the effectiveness of coordinating local resources toward the goal of economic independence for very low-income single parents. However, Operation Bootstrap includes modifications to reflect the current progress of welfare reform and lessons learned from the demonstration.

The Department will provide a special allocation of Section 8 Certificates to PHAs selected to participate in Operation Bootstrap. Approximately 3,000 Section 8 Certificates will be made available during Fiscal Year 1989 nationwide for this purpose. Certificates will be awarded according to the criteria described in this Notice. A PHA may apply for up to a maximum of 200 Certificates to be used for participants in the Operation Bootstrap programs, subject to the rules and regulations of 24 CFR Part 882. In addition to housing assistance, local Operation Bootstrap programs must provide other activities and assistance designed to enable families to achieve the goal of economic independence. HUD anticipates providing rental housing assistance resources for this purpose in Fiscal Year 1990.

II. Operation Bootstrap Objectives

The overall goal of Operation Bootstrap is to enable low-income families to become economically independent of government assistance programs. The specific objectives of the program are:

(a) To develop innovative local strategies that effectively coordinate public and private resources toward the goal of economic independence for low-income families.

(b) To integrate effectively the Section 8 Existing Housing Assistance Payments Program with other public and private benefit programs to assist low-income families achieve eventual independence from government assistance programs.

(c) To provide families with stable rental assistance support while participating in Operation Bootstrap, allowing them to participate in job training programs without undue concern for the welfare and safety of their families.

(d) To document the results of Operation Bootstrap and share the information with other communities.

Local communities may design Operation Bootstrap programs that reflect local needs and priorities, available resources, and the existing local public and private institutions to achieve the objectives described above. Local programs must contain the following components:

1. Coordinating Body. Each program must establish or use an existing local coordinating body to plan and implement its Operation Bootstrap program. The coordinating body must work with the PHA and other public and private agencies that have resources or programs available to assist low-income families. The coordinating body must develop an action plan outlining specific activities and services necessary to meet the problems of the target population; must secure commitments of local public and private resources; and must oversee the administration of the program.

The coordinating body must include representatives from the PHA, other local public and private agencies that have resources or programs available to assist low-income families, local businesses, and educational facilities. Communities are encouraged to involve the local Private Industry Council, if one exists, and to include members of the medical, religious, and financial communities in the coordinating body. The coordinating body should strive for equal representation from the private and public sectors.

2. Chief Executive Officer Support. The local Operation Bootstrap program must have the strong support and involvement of the chief executive officer of the community. Experience with the Project Self-Sufficiency demonstration indicated that this support and involvement was instrumental to program success.

3. Private Resources. Each program must utilize an active group of local private organizations that are willing to commit funds, staff, equipment, use of buildings and property, training

assistance, housing, employment opportunities, and other services to the program. Such organizations may include businesses, employee organizations, religious organizations, neighborhood organizations, medical institutions, educational institutions, cultural and civic organizations, voluntary and nonprofit service groups, foundations and corporate philanthropies, and individuals.

4. Public Resources. Each community with an Operation Bootstrap program must commit the resources of its local agencies to provide appropriate support for the program. Such resources may include, but are not limited to: Community Development Block Grant funds; Job Training Partnership Act funds; Department of Health and Human Services funds; transportation; the use of publicly-owned buildings and property, local government staff, labor and equipment, and general revenues.

To the extent necessary or appropriate to local circumstances, the following activities and services should be included in the program:

(A) Child Care. The availability of quality child care services is considered an important element of a successful Operation Bootstrap program. Lack of quality child care or unreliable child care services can contribute to the failure of participants to take full advantage of the range of available support services or job training programs. Operation Bootstrap programs should take appropriate steps to assure that child care services are available for program participants.

(B) Transportation. Local Operation Bootstrap programs should give attention to the transportation needs of program participants. The Project Self-Sufficiency demonstration indicated a high correlation between the availability of transportation and the degree to which participants are able to take full advantage of the activities provided by the program.

(C) Personal and Career Counseling. Participants should be provided opportunities for counseling in basic life skills training that enhance the participants' ability to find and retain employment.

(D) Job Development and Placement. Local programs should identify and recruit potential employers early in the planning process, so that job training programs can be tailored to the needs of the job providers. Involving the private sector members of the Operation Bootstrap program is especially critical to this element of the program. The program should make use of a skilled placement officer to match individual participants with employment opportunities in the community.

(E) Other Activities and Services. Other activities and services that are important to the success of an Operation Bootstrap program are:

—Managing and monitoring the progress of individual participants to identify any problems and to make necessary adjustments to increase the potential for a participant's success in completing the program;
—General education training, such as GED programs;
—Support group discussions;
—Preventive health care training;
—Financial counseling;
—Household maintenance training; and
—Entrepreneurial training.

III. Operation Bootstrap Participants

The families selected for participation in Operation Bootstrap must be eligible for assistance under the Section 8 Certificate Program. Selected families must enroll in the Operation Bootstrap program before securing a Section 8 Certificate, except that the PHA may include current Certificate holders in the program. Families selected for participation using Certificates made available from this special allocation must be on the PHA's Section 8 waiting list.

To the extent possible, the PHA should assist program participants to locate suitable housing by providing them with a list of available units that facilitate participation in the Operation Bootstrap program, such as easy access to public transportation or job training sites. All housing must meet the program requirements for the Section 8 Existing Housing Program described in 24 CFR Part 882.

A community may find it feasible to encourage (but may not require) program participants to utilize the Certificates to obtain housing in a particular area if doing so would facilitate the coordination of other support services. However, participants in the Operation Bootstrap program may use the Certificates to rent housing anywhere in the PHA operating area. Consistent with a PHA's authority to use up to 15 percent of its total Certificate funding for project-based assistance, a PHA may choose to use some of the Operation Bootstrap Certificate funding for project-based assistance in accordance with HUD regulations, provided the projects do not consist of more than 100 assisted units each. Communities are also encouraged to use other available resources, including Community Development Block Grants, to provide additional suitable housing.

IV. Selection Criteria for PHAs

The following factors will be considered in selecting PHAs to receive an allocation of Section 8 Certificates for Operation Bootstrap:

(1) Coordination and Speed of Implementation. The community must establish or must utilize an existing coordinating body to develop and implement the program. Special consideration will be given to applications that evidence ability for rapid delivery of services for the participating families.

(2) Commitment of Private and Public Resources. Each participating community must demonstrate the commitment of the resources of private industry, profit and nonprofit groups, and local public agencies to provide services and assistance appropriate to the program.

(3) PHA Administrative Capability. Administrative capability of the PHA must be sufficient to administer the PHA's role in the program successfully within a reasonable period of time.

(4) Innovative Mechanism for Coordination and Delivery of Services. Preference will be given to applications that propose innovative means of developing: public and private cooperative activities; programs addressing the needs of homeless families on the PHA's waiting list; employment programs related to local or State free enterprise zone initiatives; entrepreneurial opportunities; homeownership opportunities through cooperatives; tenant management; neighborhood revitalization with the assistance of neighborhood groups; or coordination with agencies implementing the Jobs Program of the Family Support Act or the Job Training Partnership Act.

V. [Reserved]

VI. Selection and Approval Procedures

When the application period is announced, the applications must be submitted to local HUD Field Offices. The HUD Field Offices will perform a preliminary review of all PHA applications to determine that the application is complete, that the PHA is currently administering a Section 8 Certificate Program, and that the PHA is capable of implementing Operation Bootstrap. All approvable applications meeting these eligibility threshold requirements will be sent to the appropriate Regional Office, with comments on the four selection factors and recommendations for funding.

Regional Office staff will review all applications submitted through their

Field Offices and may recommend to Headquarters, Office of Elderly and Assisted Housing up to 1½ times the Region's target allocation. The Field or Regional Office may recommend approval of a smaller number of units than were applied for by the PHA, and may review the applications on the basis of the reduced number. Applications will not be ranked by the Regional Office, but for each application forwarded to Headquarters, the Regional Office will provide a narrative including a description of how each of the selection factors is met by the applicant. The metro and nonmetro contract and budget authority should be specified for each recommended application.

Each Region may submit applications in accordance with the following table:

Region	Target regional CA	Target regional BA	Target regional units	Maximum units to be recommended for funding
Boston	$1,294,067	$6,470,335	170	255
New York	3,367,321	16,836,605	546	819
Philadelphia	1,568,671	7,843,355	285	428
Atlanta	2,121,309	10,606,545	434	651
Chicago	2,598,433	12,992,165	493	740
Fort Worth	1,314,663	6,573,315	265	397
Kansas City	576,667	2,883,335	140	210
Denver	408,473	2,042,365	75	112
San Francisco	3,336,429	16,682,145	486	729
Seattle	576,667	2,883,335	106	159
Totals	$17,162,700	$85,813,500	3,000	4,500

Selections will be made in Headquarters where all applications will be ranked, taking into consideration Regional Office evaluations with respect to the selection criteria described in Section III of this Notice. Funding decisions will be announced by Headquarters by September 30, 1989.

PHAs selected to participate in Operation Bootstrap must comply with all applicable regulations and requirements for the Section 8 Certificate Program. The Certificates are to be made initially available to eligible families selected for participation in the community's Operation Bootstrap program to enable them to locate decent and affordable housing. The Certificate funding may be used to provide either tenant-based or project-based assistance.

Other Matters

The General Counsel, as the Designated Official under Executive Order No. 12606—The Family, has determined that this program will not have a significant impact on family formation, maintenance, or well-being. The program will generally benefit participating families since it is designed to provide support and encouragement to upwardly mobile family units in their efforts to move toward economic self-sufficiency.

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12611—Federalism, has determined that this program does not involve the preemption of State law and does not have other negative implications associated with principles of Federalism. The program described in this Notice provides for a variety of means by which community leaders and public housing authorities may develop their own programs, with help from HUD in the form of additional housing assistance, aimed at the general goal of marshaling resources toward economic independence for low-income families. The program will be carried out within existing HUD regulations and in compliance with State and local laws.

Dated: June 9, 1989.

James E. Schoenberger,

General Deputy Assistant Secretary-Federal Housing Commissioner.

[FR Doc. 89-14139 Filed 6-13-89; 8:45 am]

BILLING CODE 4210-27-M

Office of Housing

[Docket No. N-89-2002]

Notice of Submission of Proposed Information Collection to OMB

AGENCY: Office of Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirements described below have been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESS: Interested persons are invited to submit comments regarding this proposal by June 21, 1989. Comments should refer to the proposal by name and should be sent to: John Allison, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410, telephone (202) 755-6050. This is not a toll-free number. Copies of the documents submitted to OMB may be obtained from Mr. Cristy.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act, and is requesting a 7-day expedited review.

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and the OMB desk officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Date: June 8, 1989.

James E. Schoenberger,

General Deputy Assistant Secretary for Housing-Federal Housing Commissioner.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Fund Availability and Solicitation of Proposals for the Section 8 Existing Housing Certificate Program for Operation Bootstrap.

Office: Housing.

Description of the Need for the Information and Its Proposed Use: This information collection is necessary to implement Operation Bootstrap, an initiative to encourage communities to develop and implement innovative programs to enable unemployed or underemployed members of families to become economically independent through the cooperative efforts of the public and private sectors. Approximately 3000 Certificates will be awarded to PHAs selected to participate in Operation Bootstrap.

Form Number: None.

Respondents: State or Local Governments.

Frequency of Submission: On occasion.

Reporting Burden:

	Number of respondents	×	Frequency of responses	×	Hours per response	=	Burden hours
Operation Bootstrap	500		Varies		Varies		3,920

Total Estimated Burden Hours: 3920.

Status: New.

Contact: Louise Hunt, HUD (202) 755-6887; John Allison, OMB (202) 395-6988.

Date:

Information To Be Collected:

The Department of Housing and Urban Development proposes to collect the following information in connection with Operation Bootstrap, an initiative announced elsewhere in today's **Federal Register**:

1. Action Plan:

A local Operation Bootstrap program must have an Action Plan as a component of the program. (This component is in addition to other components described in the Notice of Funds Availability, *i.e.*, a Coordinating Body, Chief Executive Officer Support, Private Resources, and Public Resources.) Under the Action Plan component, Operation Bootstrap program would assess the needs of the target population and develop an action plan of specific activities and services to meet those needs. The plan would describe specific steps to be taken to deliver the program services and activities, specify a time frame for each step, show how public and private resources are to be integrated to implement the program, and delineate responsibilities for each step of implementation.

2. Application:

Applications to local Field Offices (due by 4:00 p.m. local time on August 4, 1989) from PHAs for Section 8 Certificates to be used for participants in local Operation Bootstrap programs would be required to contain the following:

(1) An original and two copies of a competed Form HUD-52515—Application for Existing Housing (a copy of which appears as an appendix to this Notice). For purposes of expediting the selection process, the PHA should encourage the chief executive officer of the unit of general local government to submit a letter with the PHA application commenting on the PHA's application, in accordance with section 213 of the Housing and Community Development Act of 1974. (See 24 CFR Part 791 for specific requirements.) The section 213 letter should not only comment on the application and indicate that approval of the application is consistent with the community's housing assistance plan, where applicable, but should also state that HUD may consider the letter to be the final comments, and that no additional comments will be submitted by the unit of local government.

(2) Letters from the local chief executive officer and the coordinating body agreeing to participate in planning and implementation of Operation Bootstrap.

(3) Description of how the application meets the four selection factors identified in the Notice of Funds Availability for Operation Bootstrap.

3. Revised Administrative Plan:

PHAs selected to participate in Operation Bootstrap would be required to submit a revised Administrative Plan to the appropriate HUD Field Office. The revised Administrative Plan would be required to include objective criteria for identifying motivated applicants. ACC execution by HUD would not take place until the revised Administrative Plan has been approved by HUD.

Burden	Number of respondents	×	Frequency of response	×	Hours per response	=	Annual burden hours	×	Average hourly rate	=	Annual cost
PHA application	500		1		4		2,000		$13		$26,000
Action plan of coordinating body	60		1		32		1,920		$13		$24,960
Total annual burden hours							3,920				$50,960

Total respondents: 500 PHAs; 60 coordinating bodies.

Application for Existing Housing

Section 8 Housing Assistance Payments Program

Send original and two copies of this application form and attachments to the local HUD Field Office

U.S. Department of Housing and Urban Development
Office of Housing
Federal Housing Commissioner

OMB Approval No. 2502-0123 (exp. 11/30/90)

Public reporting burden for this collection of information is estimated to average 0.5 hours per response, 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 Reports Management Officer, Office of Information Policies and Systems, U.S. Department of Housing and Urban Development, Washington, D.C. 20410-3600 and to the Office of Management and Budget, Paperwork Reduction Project (2502-0123), Washington, D.C. 20503.

Name of the Public Housing Agency (PHA) requesting housing assistance payments:	Application/Project No. (HUD use only)
Mailing Address of the PHA	Requested housing assistance payments are for : How many Certificates? / How many Vouchers?
Signature of PHA Officer authorized to sign this application X	Have you submitted prior applications: No Yes . . . for Section 8 Certificates? ☐ ☐ . . . for Section 8 Housing Vouchers? ☐ ☐
Title of PHA Officer authorized to sign this application / Phone Number	Date of Application

Legal Area of Operation (area in which the PHA determines that it may legally enter into Contracts)

A. Primary Area(s) from which families to be assisted will be drawn.

Locality (City, Town, etc.)	County	Congressional District	Units

B. Proposed Assisted Dwelling Units

Housing Program	Number of Dwelling Units by Bedroom Count									Total Dwelling Units
	Elderly, Handicapped, Disabled			Non-Elderly						
	Efficiency	1-BR	2-BR	1-BR	2-BR	3-BR	4-BR	5-BR	6+BR	
Certificates										
Housing Vouchers										

C. Need for Housing Assistance. Demonstrate that the project requested in this application is consistent with the applicable Housing Assistance Plan including the goals for meeting the housing needs of Lower-Income Families or, in the absence of such a Plan, that the proposed project is responsive to the condition of the housing stock in the community and the housing assistance needs of Lower-Income Families (including the elderly, handicapped and disabled, large families and those displaced or to be displaced) residing in or expected to reside in the community. (If additional space is needed, add separate pages.)

D. Qualification as a Public Housing Agency. Demonstrate that the applicant qualifies as a Public Housing Agency and is legally qualified and authorized to carry out the project applied for in this application. (check √ the appropriate boxes)	Submitted with this application	Previously submitted
1. The relevant enabling legislation		
2. Any rules and regulations adopted or to be adopted by the agency to govern its operations		
3. A supporting opinion from the Public Housing Agency Counsel		

Retain this record for the term of the ACC.
Previous editions are obsolete

form HUD-52515 (7/88)
ref. handbook 7420.3

E. Financial and Administrative Capability. Describe the experience of the PHA in administering housing or other programs and provide other information which evidences present or potential management capability for the proposed program.

F. Housing Quality Standards. Provide a statement that the Housing Quality Standards to be used in the operation of the program will be as set forth in the program regulation or that variations in the Acceptability Criteria are proposed. In the latter case, each proposed variation shall be specified and justified.

G. Leasing Schedule. Provide a proposed schedule specifying the number of units to be leased by the end of each three-month period.

H. Average Monthly Adjusted Income (Housing Vouchers Only)

Efficiency	1-BR	2-BR	3-BR	4-BR	5-BR	6+BR

I. Attachments. The following additional items must be submitted either with the application or after application approval, but no later than with the PHA executed ACC.

	Submitted with this application	To be submitted	Previously submitted
1. Equal Opportunity Housing Plan			
2. Equal Opportunity Certifications, Form HUD-916			
3. Estimates of Required Annual Contributions, Forms HUD-52672 and HUD-52673			
4. Administrative Plan			
5. Proposed Schedule of Allowances for Utilities and Other Services, Form HUD-52667, with a justification of the amounts proposed			

HUD Field Office Recommendations

Recommendation of Appropriate Reviewing Office	Signature and Title	Date

form HUD-52515

[FR Doc. 89-14138 Filed 6-13-89; 8:45 am]

BILLING CODE 4210-27-C

federal register

Wednesday
June 14, 1989

Part VI

The President

Proclamation 5989—Father's Day, 1989

Legislation

Federal Register
Vol. 54, No. 113
Wednesday, June 14, 1989

Presidential Documents

Title 3—

The President

Proclamation 5989 of June 9, 1989

Father's Day, 1989

By the President of the United States of America

A Proclamation

By tradition, the third Sunday in June is designated Father's Day. Each year, we Americans observe this special day with renewed appreciation for the many gifts fathers bestow upon their children and the Nation.

When a father cradles his first child in his arms he knows that he holds the wonder of life itself. In that tender moment, he becomes aware of the endless rewards and awesome responsibilities of fatherhood.

A father sees the future not as some distant time and remote concern, but as the place in history where his children will dwell. He thus regards the world with a profound sense of stewardship, taking active interest in the course of current events and pursuing every endeavor as an investment in his children's well-being.

Though their gratitude may often go unspoken, children long remember their father's affection, hard work, and generosity. The simple joys of dad's piggyback rides, patient coaching, and countless little treats and surprises are memories that a child cherishes forever. What teenage girl who has winced at her father's scrutiny of her prom date, what boy who has rolled his eyes at dad's familiar lecture on driving carefully, has not also recognized these paternal "offenses" as signs of love and concern?

Most children, however, do not fully appreciate their father's concerns and sacrifices until they have children of their own. A father will carry the weight of the world on his shoulders for his family, but he will also leave the world and its distractions behind when his children need an attentive listener or another player in a game of catch. Though he may be worried about everything from a sick baby to the cost of shoes, his children are touched only by his quiet strength and faith in God.

Fathers also provide an example of discipline, concern, and commitment. Children learn from their fathers that unconditional love is the foundation of a family and that it cannot exist apart from respect, consideration, faithfulness, and responsibility. A father, in shaping the character of his children, helps to shape the character of our Nation.

While we have ample opportunity and infinite reasons throughout the year to express respect and gratitude for our dads, Father's Day enables us to recognize them in a special way. On this day, let us give thanks for and to our Nation's fathers. They have surely earned a place of honor in our hearts and prayers.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, in accordance with a joint resolution of the Congress approved April 24, 1972 (36 U.S.C. 142a), do hereby proclaim Sunday, June 18, 1989, as Father's Day. I invite the States and communities and people of the United States to observe that day with appropriate ceremonies as a mark of appreciation and abiding affection for their fathers. I direct government officials to display the flag of the United States on all Federal Government buildings, and I urge all Americans to display the flag at their homes and other suitable places on that day.

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

George Bush

[FR Doc. 89-14328
Filed 6-12-89; 4:54 pm]
Billing code 3195-01-M

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Wednesday, June 14, 1989

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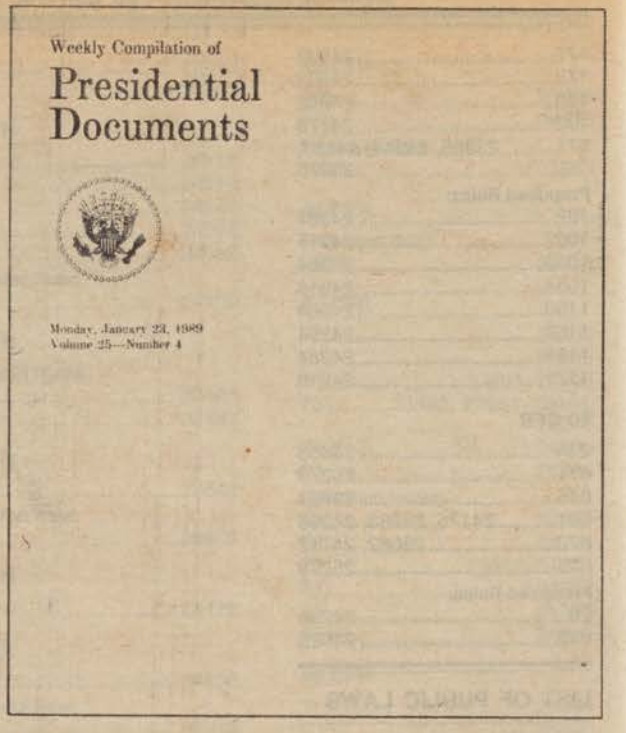
S.J. Res. 128/Pub. L. 101-36

Authorizing a first strike ceremony at the United States Capitol for the Bicentennial of the Congress Commemorative Coin. (June 9, 1989; 103 Stat. 69; 1 page) Price: $1.00

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