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Briefing on How To Use the Federal Register
For information on briefing in New York City, see announcement on the inside cover of this issue.

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WHAT IT IS AND HOW TO USE IT

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

WHO: The Office of the Federal Register.

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

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

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

NEW YORK, NY

WHEN: October 24; at 1:00 p.m.
WHERE: Room 305A,
26 Federal Plaza,
New York, NY.
RESERVATIONS: Call Arlene Shapiro or Stephen Colon at the New York Federal Information Center. 212–264–4810.

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

CFR PARTS AFFECTED IN THIS ISSUE

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

Rules and Regulations

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DEPARTMENT OF AGRICULTURE

Farmers Home Administration

7 CFR Parts 1864 and 1962

Elimination of Loan Codes and Account Status Statements

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its regulations to remove references to FmHA Instruction 450.1, Loan Codes and Account Status Statements, which has been deemed unnecessary, and to change the reference Form FmHA 450–1, "Statement of Account," to Form FmHA 1951–9, "Annual Statement of Loan Account." The intended effect of this action is to update the Agency's regulations and CFR.

EFFECTIVE DATE: October 18, 1989.

FOR FURTHER INFORMATION CONTACT: Keith Miller, Systems Accountant, Accounting Policy and Procedures Section I, USDA, Farmers Home Administration, 1520 Market Street, St. Louis, Missouri 63103, telephone FTS 262–6024 or Commercial 314–539–6024.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Departmental Regulation 1512–1, which implements Executive Order 12291, and has been determined to be exempt from those requirements because it involves only internal Agency management. It is the policy of this Department to publish for comment rules relating to public property, loans, grants, benefits, or contracts, notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. This action, however, is not published for proposed rulemaking since it involves only matters involving management, making publication for comment unnecessary and impractical.

This action affects the following programs listed in the catalog of Federal Domestic Assistance:

10.406–Farm Operating Loans.
10.410–Low Income Housing Loans.

This program/activity is not subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local official. See 7 CFR part 3015, subpart V (48 FR 29115, June 24, 1983) and 7 CFR part 1940, subpart J, "Intergovernmental Review of Farmers Home Administration Programs and Activities."

This document has been reviewed in accordance with 7 CFR part 1940, subpart G, "Environmental Programs." FmHA has determined that this action does not constitute a major Federal action significantly affecting the quality of human environment and, in accordance with the National Environmental Policy Act of 1969, Public Law 91–190, an Environmental Impact Statement is not required.

List of Subjects for 7 CFR Parts 1864 and 1962

Accounting, Loan programs-Agriculture, Rural areas, Crops, Government property, Livestock.

Therefore, chapter XVIII, title 7, Code of Federal Regulations is amended as follows:

PART 1864—DEBT SETTLEMENT

1. The authority citation for part 1864 continues to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 31 U.S.C. 3711; 7 CFR 2.23; and 7 CFR 2.70.

2. Section 1864.19 is amended by revising paragraph (b) to read as follows:

§ 1864.19 Finance Office handling.

* * * * *

(b) When a debtor's adjustment offer is approved, the accounts involved will not be adjusted in the records of the Finance Office until all payments have been made. In such cases, Form FmHA 1956–1 will be held in a suspense file pending payment of the full amount of the approved offer. All copies of Form FmHA 1951–9, "Annual Statement of Loan Account," or other forms used for the same purpose, issued in cases of approved adjustments will be stamped by the Finance Office with the following legend: "Subject to approved adjustment." The original Form FmHA 1956–1 in approved cases will be retained in the Finance Office.

* * * * *

PART 1962—PERSONAL PROPERTY

3. The authority citation for part 1962 continues to read as follows:

Authority: 7 U.S.C. 1989; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

4. Section 1962.49 is amended by revising the introductory text of paragraph (e) to read as follows:

§ 1962.49 Civil and criminal cases.

* * * * *

(e) *Actions on cases referred to the U.S. Attorney and on judgement cases (including third-party judgements).* OGC will notify the State Director, the Finance Office, and the County Supervisor when a case is referred to the U.S. Attorney or is otherwise closed. When a case is referred to the U.S. Attorney, the Finance Office will discontinue mailing Form FmHA 1951–9, Annual "Statement of Loan Account," to such borrowers. OGC will also notify the State Director when a judgement (including third-party) is obtained.

* * * * *

Dated: August 30, 1989.

Neal Sox Johnson,

Acting Administrator, Farmers Home Administration.

[FR Doc. 89–24534 Filed 10–17–89; 8:45 am]

BILLING CODE 3410–07–M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Chapters III and V

Regulations Transferred From Federal Savings and Loan Insurance Corporation; Redesignation From Chapter V to Chapter III

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Rule.

SUMMARY: In abolishing the Federal Home Loan Board ("FHLBB") and the Federal Savings and Loan Insurance Corporation ("FSLIC"), the Financial Institutions Reform, Recovery, and

Enforcement Act of 1989 ("FIRREA") provided for the transfer of FHLBB and FSLIC regulations relating to the conduct of conservatorships and receiverships, the provision, rates or cancellation of insurance of accounts, and the administration of the FSLIC insurance fund to either the Office of Thrift Supervision ("OTS") or the Federal Deposit Insuranace Corporation ("FDIC"). On October 6, 1989, as required by FIRREA, the Director of the OTS and the Chairperson of the FDIC jointly identified those regulations to be transferred and published a notice in the **Federal Register** allocating those regulations between the OTS and the FDIC (54 FR 41359–61).

This document carriers out the transfer of those FHLBB or FSLIC regulations which have been allocated to the FDIC by redesignating them from the former FHLBB's regulations in title 12, chapter V, of the Code of Federal Regulations to the FDIC's regulations in title 12, chapter III, of the Code of Federal Regulations. This action is being taken for the purpose of transferring the former FHLBB and FSLIC regulations out of chapter V so that the OTS can establish its regulations in chapter V; the FDIC may take additional action in the future to modify, amend, or revoke certain of the transferred regulations.

EFFECTIVE DATE: October 18, 1989.

FOR FURTHER INFORMATION CONTACT: Alan J. Kaplan, Counsel, Legal Division, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429, phone (202) 898–3734; or Grovetta D. Nelson, Regional Attorney, Legal Division DOS, Federal Deposit Insurance Corporation, 452 Fifty Avenue, New York, New York 10018, phone (212) 704–1454.

SUPPLEMENTARY INFORMATION:

A. General

The FIRREA, signed into law August 9, 1989 (Pub. L. No. 101–73), immediately abolished the FSLIC, and abolished the FHLBB 60 days after enactment. Although these agencies have been abolished, FIRREA provides that FHLBB or FSLIC regulations and orders that relate to functions transferred by FIRREA and that were in effect on August 9, 1989 shall continue in effect according to their terms. These rules and regulations are enforceable by or against the FDIC, the Director of the OTS, the Federal Housing Finance Board, or the Resolution Trust Corporation, as the case may be, until the responsible agency modifies, terminates, sets aside, or supersedes them in accordance with applicable law. Pursuant to section 401(i) and 402(b) of FIRREA, the Chairperson of the FDIC and the Director of the OTS were required to identify those FHLBB or FSLIC regulations and orders relating to the conduct of conservatorships and receiverships, the provision, rates or cancellation of insurance of accounts, and the administration of the FSLIC insurance fund which would be enforceable by the FDIC and the OTS, and publish notice of the allocation of these regulations and others in the **Federal Register**. This was accomplished in a separate notice document jointly issued by the two agencies and published in the **Federal Register** on October 6, 1989 (54 FR 41359).

The FDIC is hereby formally transferring those regulations which have been allocated to it from 12 CFR chapter V to 12 CFR chapter III, and redesignating them to conform to the current structure of the FDIC's regulations in 12 CFR chapter III.

This document establishes subchapter C in title 12, chapter III, of the Code of Federal Regulations, where the transferred and redesignated regulations will be codified. Subchapter C will be entitled "Regulations Transferred from Federal Savings and Loan Insurance Corporation".

The regulations are being transferred at this time for the purpose of removing them from 12 CFR chapter V, since the OTS intends to publish its regulations in that chapter. To expedite this action, no changes (other than their redesignation) are being made at this time to the content of the transferred regulations; however, the FDIC may take additional action in the future to modify, amend, or repeal certain of the transferred regulations.

The FIRREA abolished the FSLIC insurance fund and established two separate insurance funds to be administered by the FDIC, the Bank Insurance Fund ("BIF") and the Savings Association Insurance Fund ("SAIF"). In general (with certain exceptions), members of the BIF are banks, while members of the SAIF are savings associations (savings and loans and similar institutions). Those regulations transferred from FSLIC relating to the administration of the FSLIC insurance fund will apply only to members to the SAIF.

B. Administrative Procedure Act

The transferred regulations were previously promulgated by the former Federal Home Loan Bank Board after notice and opportunity for public comment, where required. Therefore, a notice of proposed rulemaking and ensuing comment period is unnecessary in this case. Moreover, this action merely redesignates certain regulations from one chapter of the Code of Federal Regulations to another, without changing the content of those regulations in any way, in order to permit another agency (OTS) to publish its regulations in the chapter being vacated. Accordingly, this redesignation will become effective immediately upon publication.

C. Regulatory Flexibility Act

No notice of proposed rulemaking is required for this action, so the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) do not apply.

Accordingly, under the authority of title IV of Public Law 101–73 (103 Stat. 183, 354) and as set forth in the preamble, chapter III of title 12 of the Code of Federal Regulations is amended by adding a new subchapter C in chapter III, and chapter V of title 12 of the Code of Federal Regulations is amended by redesignating certain parts and sections of chapter V to chapter III, as set forth below.

1. Title 12, chapter III, of the Code of Federal Regulations is amended by adding a new subchapter C, consisting of parts 382 through 396, as follows:

CHAPTER III—FEDERAL DEPOSIT INSURANCE CORPORATION

SUBCHAPTER C—REGULATIONS TRANSFERRED FROM FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

2. Title 12 of the Code of Federal Regulations is amended by redesignating certain regulations from 12 CFR chapter V to 12 CFR chapter III as set forth in the following redesignation table which shows the relationship of

the former CFR part and section numbers under 12 CFR chapter V and new part and section numbers in 12 CFR chapter III:

REDESIGNATION TABLE

12 CFR ch. V: Former Section Numbers	12 CFR ch. III: New Section Numbers
Part 548	Part 382.
Part 549	Part 383.
Part 562	Part 384.
563.8–2	385.5.
563.15	385.6.
563.16	385.7.
563.16–2	385.8.
563.28	385.9.
563.29–1	385.1.
563.30	385.2.
563.31	385.3.
563.36	385.4.
Part 564	Part 386.
564.1	386.1.
564.2	386.2.
564.3	386.3.
564.4	386.4.
564.5	386.5.
564.6	386.6.
564.7	386.7.
564.8	386.8.
564.9	386.9.
564.10	386.10.
564.11	386.11.
Appendix to Part 564	Appendix to Part 386.
Part 565	Part 387.
569a.4	388.1.
569a.5	388.2.
569a.6	388.3.
569a.7	388.4.
569a.8	388.5.
569a.9	388.6.
569a.10	388.7.
569a.11	388.8.
569a.12	388.9.
569a.13	388.10.
Part 569c	Part 389.
570.12	386.12.
570.13	386.13.
Part 572	Part 390.
Part 572a	Part 391.
Part 575	Part 392.
Part 575a	Part 393.
Part 576	Part 394.
Part 577	Part 394.
Part 577	Part 395.
Part 578	Part 396.

3. All internal references in the redesignated parts and sections are changed accordingly.

By direction of the Chairperson of the Board of Directors of the Federal Deposit Insurance Corporation.

Dated at Washington, DC, this 12th day of October, 1989.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 89–24539 Filed 10–17–89; 8:45 am]

BILLING CODE 6174–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 89–ANM–4]

Establish Transition Areas; Telluride, CO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This action establishes the Telluride, Colorado, transition areas to provide a controlled airspace environment for a new VOR/DME approach to Runway 9 at the Telluride Airport. The areas will be depicted on aeronautical charts, and are intended to segregate aircraft operating under Instrument Flight Rules from other aircraft which are operating under Visual Flight Rules.

DATES: *Effective Date:* 0901 u.t.c., November 13, 1989.

Comments must be received on or before November 30, 1989.

ADDRESSES: Send comments on the rule to: Federal Aviation Administration, 17900 Pacific Highway South, Docket 89–ANM–4, Seattle, Wasington 98168, ATTN: ANM–536.

The official docket may be examined at the same address.

An informal docket may also be examined during normal business hours at the same address.

FOR FURTHER INFORMATION CONTACT: Ted Melland, ANM–536. Federal Aviation Administration, Docket No. 89–ANM–4, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168, Telephone: (206) 431–2536.

SUPPLEMENTARY INFORMATION:

Request for Comments on the Rule

Although this action is in the form of a final rule, which involves establishment of transition areas at Telluride, Colorado, and was published as Notice of Proposed Rulemaking (NPRM) (54 FR 18538, May 1, 1989); and although no comments were received, change has been made to the initial proposal. Public comment is again invited on the rule. When the comment period ends, the FAA will use the comments submitted, together with any other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects on the rule and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the rule that might suggest the need to modify the rule.

Discussion

The purpose of this amendment to § 71.181 of part 71 of the Federal Aviation Regulations (14 CFR part 71) is to establish controlled airspace for a new instrument approach procedure at Telluride, Colorado. This airspace is needed to encompass a VOR/DME approach to Runway 9. The area will be depicted on appropriate aeronautical charts for pilot reference, enabling pilots to remain clear of controlled airspace or otherwise comply with Instrument Flight Rules.

After the Notice of Proposed Rulemaking was published, it was decided to reduce the impact upon the flying public by eliminating the portion which would establish controlled airspace upward from 1,200 feet above the surface, and replace it with controlled airspace which extends upward from 11,000 feet above sea level. This will provide aircraft from other airports in the same geographical area with 2,000–4,000 feet more in which to operate outside of controlled airspace. In addition, the geographical dimensions of the 11,000 foot transition area are slightly larger than those proposed for the 1,200 foot transition area, and the dimensions of the 700 foot transition area have been slightly enlarged over those proposed. Overall, however, impacts on the flying public are significantly less than those anticipated from the proposal.

It is important that the airspace be designated as soon as possible so as to permit operations during the highly critical period of time involving winter months when the procedure is most needed. Under these circumstances, the FAA concludes that there is an immediate need for the regulation to establish the transition area before the winter season, when the flying public would most benefit. Therefore, I find that notice and public procedure under 5 U.S.C. 553(b) are unnecessary and contrary to public interest. For the same reason, I find that good cause exists for making this amendment effective 30 days after publication in the **Federal Register.**

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

The Rule

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

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Adoption of the Amendment

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

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

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

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

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

Telluride, Colorado (New)

That airspace extending upward from 700 feet above the surface within an area bounded by a line beginning at:
Lat. 38 12'30"N., long. 108 11'45"W.; to lat. 38 03'45"N., long. 107 38'00"W.; to lat. 37 44'45"N., long. 107 46'00"W.; to lat. 37 53'00"N., long. 108 20'00"W.;

To the point of beginning; and that airspace extending upward form 11,000 feet above mean sea level within an area bounded by a line beginning at:
Lat. 38 22'00"N., 108 39'30"W.; to lat. 38 11'30"N., 107 56'30"W.; to lat. 37 51'00"N., 108 05'00"W.; to lat. 38 01'15"N., 108 48'00"W.; to point of beginning.

Issued in Seattle, Washington, on September 27, 1989.

Temple H. Johnson, Jr.,

Manager, Air Traffic Division Northwest Mountain Region.

[FR Doc. 89–24550 Filed 10–18–89; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 3

RIN 2900–AB64

Claims Based on Exposure to Ionizing Radiation

AGENCY: Department of Veterans Affairs.

ACTION: Final regulations.

SUMMARY: The Department of Veterans Affairs (VA) is amending its adjudication regulations concerning diseases considered to be "radiogenic." These amendments are deemed appropriate based upon our evaluation of the recommendations by the Veterans' Advisory Committee on Environmental Hazards. The effect of these amendments will be improved adjudication of radiation claims. We are also withdrawing a proposed clarification concerning when service connection can be established based upon claimed exposure to ionizing radiation and herbicides containing dioxin.

EFFECTIVE DATE: These amendments are effective November 17, 1989.

FOR FURTHER INFORMATION CONTACT: Joel Drembus, Regulations Staff, Compensation and Pension Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue, N.W., Washington, DC 20420, (202) 233–3005.

SUPPLEMENTARY INFORMATION: On pages 48551–48552 of the **Federal Register** of December 1, 1988, the VA published a proposal to amend §§ 3.311a and 3.311b. A correction was published on page 50547 of the **Federal Register** of December 16, 1988. Interested persons were invited to submit comments, suggestions, or objections by January 3, 1989. One comment was received.

The regulatory changes were proposed under RIN 2900–AB64 with the title, Claims Based on Exposure to Ionizing radiation and Herbicides Containing Dioxin. However, for the reasons set forth below, the proposed change to § 3.311a, the regulation pertaining to claims based on exposure to herbicides containing dioxin during service in the Republic of Vietnam, is being withdrawn. Consequently, the title of these regulatory amendments has been changed to delete reference to claims based on exposure to herbicides containing dioxin.

The commenter noted that a proposed amendment to a different regulation (§ 3.309) to implement Public Law 100–321, 102 Stat. 485 (1988), published on pages 50547–50550 of the **Federal Register** of December 16, 1988, would list 13 diseases for which service connection may be established by presumption in a radiation-exposed veteran. Should the amendments to §§ 3.311b and 3.309 become final, five of the thirteen diseases that could be service-connected by presumption (lymphomas (except Hodgkin's disease), and cancers of the pharynx, small intestine, bile ducts, and gall bladder) would not be considered to be "radiogenic" in § 3.311b(b)(2). It was suggested that the five diseases be added to the list of "radiogenic" diseases in § 3.311b(b)(2) as there is sound scientific and medical evidence to do so.

As the suggested additions to the list of "radiogenic" diseases are outside of the scope of the original proposal and have not been subject to public comment, they will be given separate consideration. We will consult with the Veterans' Advisory Committee on Environmental Hazards and will consider whether there is sound scientific and medical evidence to warrant our adding any or all of the five diseases to the list of "radiogenic", diseases. Should we conclude that any or all of the five should be considered "radiogenic" we will implement a new rulemaking procedure for the further amendment of § 3.311b(b)(2).

The commenter objected to the proposed change to § 3.311b(h), stating that it was not explained, or even mentioned, in the preamble to the proposed regulations. It was suggested that the final sentence of the proposed change be eliminated. The reason for the proposed change to § 3.311b(h) was explained in the preamble (see the summary paragraph and the last paragraph on page 48551 of the **Federal Register** of December 1, 1988). However, in Nehmer, et al., v. United States Veterans Administration, et al., C. A. No. C–86–6160 TEH, U. S. D. C., N. D. Cal., May 3, 1989, the court invalidated VA's requirement of proof of a causal relationship in adjudicating Agent Orange claims. In view of that decision, VA is reconsidering any necessary amendments to regulations adopted under the Veterans' Dioxin and Radiation Exposure Standards Act, Public Law 98–542, 98 Stat. 2725 (1984). Accordingly, we are withdrawing the proposed amendments of §§ 3.311a(g) and 3.311b(h) as they made reference to the causal relationship standard.

We appreciate the comments and suggestions submitted in response to publication of the proposed rules which are adopted with the exception of the

proposed amendments of §§ 3.311a(g) and 3.311b(h) which are withdrawn.

The Secretary hereby certifies that these regulatory amendments will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. The reason for this certification is that these amendments would not directly affect any small entities. Only VA beneficiaries could be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), these amendments are exempt from the initial and final regulatory flexibility analyses requirements of section 603 and 604.

In accordance with Executive Order 12291, Federal Regulation, the VA has determined that these regulatory amendments are nonmajor for the following reasons:

(1) They will not have an annual effect on the economy of $100 million or more.

(2) They will not cause a major increase in costs or prices.

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

(Catalog of Federal Domestic Assistance Program numbers are 64.100, 64.101, 64.106, 64.109, and 64.110).

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Handicapped, Health care, Pensions, Veterans.

Approved: September 13, 1989.

Edward J. Derwinski,

Secretary of Veterans Affairs.

38 CFR PART 3, ADJUDICATION, IS AMENDED AS FOLLOWS:

1. In § 3.311b, the first sentence of paragraph (a)(1) is revised, paragraphs (b)(2)(i), (b)(2)(iii), (b)(2)(xiv), (b)(2)(xv), and (b)(4) are revised, and paragraphs (b)(2) (xvi) and (xvii) and authority citations for paragraphs (a)(1) and (b)(2) are added, to read as follows:

§ 3.311b Claims based on exposure to ionizing radiation.

(a) * * *

(1) *Dose assessment.* In all claims in which it is established that a radiogenic disease, listed in paragraph (b)(2) of this section, first became manifest after service and was not manifest to a compensable degree within any applicable presumptive period as specified in § 3.307 or § 3.309, and it is contended the disease is a result of exposure to ionizing radiation in service, an assessment will be made as to the size and nature of the radiation dose or doses. * * *

(Authority: 38 U.S.C. 210(c))

* * * * *

(b) * * *

(2) * * *

(i) All forms of leukemia except chronic lymphatic (lymphocytic) leukemia;

* * * * *

(iii) Breast cancer;

* * * * *

(xiv) Salivary gland cancer;

(xv) Multiple myeloma;

(xvi) Posterior subcapsular cataracts; and

(xvii) Non-malignant thyroid nodular disease.

(Authority: 38 U.S.C. 210(c))

* * * * *

(4) For the purposes of paragraph (b)(1) of this section:

(i) Bone cancer must become manifest within 30 years after exposure;

(ii) Leukemia may become manifest at any time after exposure;

(iii) Posterior subcapsular cataracts must become manifest 6 months or more after exposure; and

(iv) Other diseases specified in paragraph (b)(2) of this section must become manifest 5 years or more after exposure.

(Authority: 38 U.S.C. 210(c); Pub. L. 98–542)

§ 3.312 [Amended]

2. In § 3.312(c)(1), remove the word "casual" and add in its place, the word "causal".

[FR Doc. 89–24490 Filed 10–17–89; 8:45 am]

BILLING CODE 8320–01–M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101–40

[FPMR Temp. Reg. G–52, Supp. 1]

Use of Carrier Contractor for Express Small Package Transportation

AGENCY: Federal Supply Service, GSA.

ACTION: Temporary regulation.

SUMMARY: This supplement extends the expiration date of FPMR Temporary Regulation G–52 to September 30, 1990.

DATES: *Effective date:* October 1, 1989. *Expiration date:* September 30, 1990.

FOR FURTHER INFORMATION CONTACT: Ed Kelliher, Transportation Management Division, Freight Management Branch (FBXF), FTS 557–7981 or commercial 703–557–7981.

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

List of Subjects in 41 CFR Part 101–40

Freight, Government property, Moving of household goods, Office relocations, Transportation.

PART 101–40 [AMENDED]

The authority citation for part 101–40 continues to read as follows:

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

In 41 CFR chapter 101, the following temporary regulation is added to the appendix at the end of subchapter G to read as follows:

Federal Property Management Regulations, Temporary Regulation G–52, Supplement 1

To: Heads of Federal agencies.

Subject: Use of carrier contractor for express small package transportation.

1. *Purpose.* This supplement extends the expiration date of FPMR Temporary Regulation G–52.

2. *Effective date.* This supplement is effective October 1, 1989.

3. *Expiration date.* This supplement expires September 30, 1990, unless sooner canceled or revised.

4. *Explanation of change.* The expiration date in paragraph 3 of FPMR Temporary Regulation G–52 is extended to September 30, 1990.

Dated: October 2, 1989.

Richard G. Austin,

Acting Administrator of General Services.

[FR Doc. 89–24512 Filed 10–17–89; 8:45 am]

BILLING CODE 6820–24–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 87-615; RM-5877, RM-6321]

Radio Broadcasting Services; Virgie and West Liberty, KY

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 298A to Virgie, Kentucky, in response to a petition filed by Shelby Valley Broadcasting, Inc., ("petitioner"), as the community's first local FM service. Channel 298A can be allotted to Virgie in compliance with the Commission's minimum distance separation requirements. The coordinates for Channel 298A at Virgie are 37–20–06 and 82–34–47. In response to a counterproposal filed by East Kentucky Broadcasting Corporation, we shall allot Channel 275A to West Liberty, Kentucky, as that community's first local FM service. Channel 275A can be allotted to West Liberty in compliance with the Commission's minimum distance separation requirements. The coordinates for Channel 275A at West Liberty are 37–55–24 and 83–15–30. With this action, this proceeding is terminated.

DATES: Effective November 24, 1989; The window period for filing applications will open on November 27, 1989, and close on December 27, 1989.

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media Bureau (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a snyopsis of the Commission's Report and Order, MM Docket No. 87–615, adopted September 19, 1989, and released October 10, 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. Section 73.202(b) the Table of FM Allotments is amended under Kentucky by adding Virgie, Channel 298A, and West Liberty, Channel 275A.

Karl A. Kensinger,

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

[FR Doc. 89–24547 Filed 10–17–89; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 86–416, RM–5112]

Radio Broadcasting Services; Keokuk, IA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document vacates an earlier action in this proceeding modifying the license of Station KOKX(FM), Channel 237A, Keokuk, Iowa, to specify operation on Channel 290C2, Keokuk, and reallots Channel 237A to Keokuk, in response to the request of the licensee of KOKX(FM). Channel 290C2, with a site restriction of 15.7 kilometers (9.8 miles) southwest of Keokuk at coordinates 40–16–12 and 91–28–29 is thereby available for applications. The licensee of Station KOKX(FM) has filed a petition for rule making proposing to substitute Channel 237C1 for Channel 237A at Keokuk. In a concurrent action, the Commission issues a Notice of Proposed Rule Making to this effect. If Channel 237A is modified to Channel 237C1, Channel 290C2 will be deleted from Keokuk due to interference concerns, and Channel 242C2 will serve as the substitute to accommodate any parties interested in pursuing a Class C2 channel at Keokuk. The document also dismisses a petition for stay, and denies an opposition to order to show cause and a petition for reconsideration. With this action, this proceeding is terminated.

DATES: Effective November 24, 1989; the window period for filing applications for Channel 290C2 at Keokuk, Iowa will open on November 27, 1989, and close on December 27, 1989.

FOR FURTHER INFORMATION CONTACT: Michael Ruger, Mass Media Bureau (202) 632–6302.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Memorandum Opinion and Order, MM Docket No. 86–416, adopted September 19, 1989, and released October 10, 1989. The full text of this Commission decision is available during 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.

47 CFR 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 for Iowa by adding Channel 237A at Keokuk.

Federal Communications Commission.

Bradley P. Holmes,

Chief, Policy and Rules Division Mass Media Bureau.

[FR Doc. 89–24548 Filed 10–17–89; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 80

[DA 89–1208]

Waiver of the Rules To Extend Aircraft Transmitter Frequency Tolerance

AGENCY: Federal Communications Commission.

ACTION: Waiver of rule.

SUMMARY: This order waives compliance with footnote 2 to title 47 of the Code of Federal Regulations § 87.133(a) until January 1, 1992, for currently installed aircraft radios. This waiver alleviates the impact of footnote 2 by providing more time within which aircraft radio transmitters operating in the band 100–470 MHz must meet a frequency tolerance of thirty parts per million (ppm). The frequency tolerance for aircraft stations subject to this waiver continues to be fifty ppm.

EFFECTIVE DATE: October 18, 1989.

FOR FURTHER INFORMATION CONTACT: Robert P. De Young, Private Radio Bureau, (202) 632–7175.

SUPPLEMENTARY INFORMATION:

Order

In the matter of transmitter frequency tolerance in the aviation services.

Adopted: September 21, 1989.

Released: September 22, 1989.

By the Chief, Private Radio Bureau:

1. In an Order released May 22, 1984, FCC 84–220, 49 FR 21737 (1984), the Commission amended § 87.65 of the Rules, 47 CFR 87.65 to require, among

other things, aircraft radio stations operating in the frequency band 100 MHz to 470 MHz to maintain a frequency tolerance of 30 parts per million (ppm).[1] Section 87.133(a) of the rules, 47 CFR 87.133(a) provides that 30 ppm is the maximum frequency tolerance permitted after January 1, 1985, for new and replacement transmitters and for all transmitters after January 1, 1990. The effect of this rule is to require modification or replacement of all aircraft transmitters operating in the 100 MHz to 470 MHz band that do not meet the 30 ppm frequency tolerance by January 1, 1990.

2. When the Commission adopted the tolerance in 1984, it stated its intention to conform part 87 of the Rules to the Final Acts of the World Administrative Radio Conference, Geneva, 1979 (WARC 79), which became effective internationally on January 1, 1982. The Commission noted that the proposed frequency tolerance was published in the *Fifth Notice of Inquiry* in General Docket 80–739 FFC 82–213, 47 FR 25982 (1982) and that no comments were received regarding the proposed frequency tolerance. The Commission also noted in its 1984 *Order* that adoption of the frequency tolerance was consistent with the three-phase plan of the Federal Aviation Administration (FAA) to implement 25 kHz channel spacing in the 118–136 MHz band. No objections to or petitions for reconsideration of this action were received.

3. In a letter dated July 31, 1989, the Aircraft Owners and Pilots Association, the Experimental Aircraft Association, the General Aviation Manufacturers Association, and the Helicopter Association International (hereafter petitioners) jointly petitioned the Commission to exclude all currently installed VHF aircraft radios from the 30 ppm frequency tolerance requirement. In support of its petition, petitioners estimate that as many as 93,000 radios are currently installed in the general aviation fleet that do not meet the new tolerance requirement. Petitioners point out that these radios are installed in small, singe-engine, piston-powered aircraft which are primarily operated in relatively remote areas of the United States where they would not interfere with other U.S. or foreign radios employing the 30 ppm tolerance. The petitioners argue that the cost of replacing these radios which they estimate to be approximately $1200 or the cost of modifying them, between $450 and $650 frequently will exceed the radio's market value. Further, the petitioners state that the international Radio Regulations do not require all installed aircraft radios to meet to 30 ppm requirement by January 1, 1990. They note that footnote 28 to appendix 7 of the international Radio Regulations permits installed aircraft radios with channel spacing of 50 kHz to continue to operate with a frequency tolerance of 50 ppm.

4. We recognize the potential burden resulting from the pending change in the frequency tolerance requriement on the general aviation community. Additionally, we note that the continued operation of currently installed aircraft stations with a frequency tolerance of 50 ppm should not cause interference to other stations. Therefore, to alleviate the pending impact and to allow sufficient time to analyze the effects of petitioners' request on the general aviation community, we are extending the January 1, 1990, deadline to January 1, 1992, for meeting the 30 ppm frequency tolerance requirement.

5. Accordingly, pursuant to the authority in §§ 0.331 and 1.3 of the Commission's Rules, 47 CFR 0.331 and 1.3, the requirement contained in footnote 2 of § 87.133(a) of the Rules, 47 CFR 87.133(a), for currently installed aircraft stations operating in the band 100–470 MHz to maintain a frequency tolerance of 30 ppm effective January 1, 1990, IS WAIVED until January 1, 1992. The frequency tolerance for aircraft stations subject to this waiver continues to be 50 ppm.

List of Subjects in 47 CFR Part 80

Aviation Service.

Federal Communications Commission.

Ralph A. Haller,

Chief, Private Radio Bureau.

[FR Doc. 89–24081 Filed 10–17–89; 8:45 am]

BILLING CODE 6712–01–M

[1] Section 87.65 of the rules has since been recodified as § 87.133, 47 CFR 87.133 See 53 FR 28940 (1988).

Proposed Rules

Federal Register
Vol. 54, No. 200
Wednesday, October 18, 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 TRANSPORATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 89-ASO-40]

Proposed Establishment of Transition Area, Claxton, GA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish the Claxton, GA, transition area. A nondirectional radio beacon (NDB) standard instrument approach procedure (SIAP) has been developed to Runway, 9 at the Claxton-Evans County Airport. This action would lower the base of controlled airspace from 1,200 feet to 700 feet above the surface in vicinity of the airport. The additional controlled airspace is required for protection of instrument flight rules (IFR) aeronautical operations. If approved, concurrent with publication of the SIAP the operating status of the Claxton-Evans County Airport would be changed from visual flight rules (VFR) to IFR.

DATES: Comments must be received on or before: November 30, 1989.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, ASO-530, Manager, Airspace and Procedures Branch, Docket No. 89-ASO-40, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Assistant Chief Counsel for Southern Region, room 652, 3400 Norman Berry Drive, East Point, Georgia 30344, telephone: (404) 763-7646.

FOR FURTHER INFORMATION CONTACT: James G. Walters, Airspace Section, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763-7646.

SUPPLEMENTARY INFORMATION:

Comments invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 89-ASO-40." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Office of the Assistant Chief Counsel for Southern Region, room 652, 3400 Norman Berry Drive, East Point, Georgia 30344, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, Airspace and Procedures Branch (ASO-530), Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.181 of part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish the Claxton, GA, transition area. An NDB SIAP has been developed to serve runway 9, at the Claxton-Evans County Airport. This action would lower the base of controlled airspace from 1,200 feet to 700 feet above the surface in vicinity of the airport for protection of IFR aeronautical operations. If approved, the operating status of the airport would change from VFR to IFR concurrent with publication of the instrument approach procedure. Section 71.181 of part 71 of the Federal Aviation Regulations was republshed in FAA Handbook 7400.6E dated January 3, 1989.

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

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) as follows:

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

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

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

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

Claxton, GA [New]

That airspace extending upward from 700 feet above the surface within a five-mile radius of the Claxton-Evans County Airport (latitude 32°11'37"N, longitude 81°52'23"W); within three miles each side of the 248° bearing from the Claxton NDB (latitude 32°11'34"N, longitude 81°52'30"W), extending from the 5-mile radius area to 8.5 miles west of the NDB.

Issued in East Point, Georgia, on October 4, 1989.

Don Cass,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 89-24549 Filed 10-17-89; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 169a

[DoD Instruction 4100.33]

RIN 0790-AA48

Commercial Activities Program Procedures

AGENCY: DoD, WHS.

ACTION: Proposed rule.

SUMMARY The Department of Defense is amending the proposed rule published in the **Federal Register** on April 18, 1989 (54 FR 15442), "Commercial Activities Program Procedures," 32 CFR part 169a. This amendment is to add § 169a.2(k) which was inadvertently omitted.

FOR FURTHER INFORMATION CONTACT: Mr. Dom Miglionico, Office of the Assistant Secretary of Defense (Production and Logistics) Installations Support Division, Pentagon, Washington, DC 20301-8000.

SUPPLEMENTARY INFORMATION:

List of Subjects in 32 CFR Part 169a

Armed forces; Government procurement.

Accordingly, 32 CFR part 169a as proposed at 54 FR 15442 is amended as follows:

PART 169a—[AMENDED]

1. The authority citation for part 169a continues to read as follows:

Authority: 5 U.S.C. 301; E.O. 12615; Pub. L. 93-400.

2. Section 169a.2 is amended to add paragraph (k) to read as follows:

§ 169a.2 Applicability and scope.

* * * * *

(k) Establishes and shall not be construed to create any substantive or procedural basis for anyone to challenge any DoD action or inaction was not in accordance with this part, except as specifically set forth in § 169a.6(c)(7).

Dated: October 10, 1989.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 89 24217 Filed 10-17-89; 8:45 am]

BILING CODE 3810-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 89-442, RM-6837]

Radio Broadcasting Services; Roanoke, AL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed on behalf of Eagle's Nest, Inc., licensee of Station WELR-FM, Channel 272A, Roanoke, Alabama, seeking the substitution of FM Channel 272C3 for Channel 272A and modification of its license accordingly. Coordinates for this proposal are 33-00-0000 and 85-26-00.

DATES: Comments must be filed on or before December 1, 1989, and reply comments on or before December 18, 1989.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: M. Scott Johnson and Catherine M. Grofer, Esqs., Gardner, Carton & Douglas, 1001 Penn. Ave., NW., Suite 750-N, Wash., DC 20004.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 89-442, adopted September 19, 1989, and released October 10, 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.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Karl A. Kensinger,

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

[FR Doc. 89-24558 Filed 10-17-89; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 89-443, RM-6827]

Radio Broadcasting Services; Lake Arthur, LA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Jefferson Davis Broadcasting Corporation, proposing the substitution of Channel 297C3 for Channel 297A at Lake Arthur, Louisiana, and the modification of Station KAHJ(FM)'s construction permit to specify operation on Channel 297C3 in lieu of Channel 297A. A site restriction of 17.9 kilometer (11.1 miles) northeast of the city is required, at coordinates 30-07-01 and 92-51-35. The community could receive its first wide coverage area FM service.

DATES: Comments must be filed on or before December 1, 1989, and reply comments on or before December 18, 1989.

ADDRESSES: Federal Communications Commission, Washington, DC 20554 in addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant, as follows: Ashton R. Hardy, Esquire, Bradford D. Carey, Esquire, Marjorie R. Esman, Esquire, Walker, Bordelon, Hamlin, Theriot and Hardy,

701 South Peters Street, New Orleans, LA 70130 (Counsel for petitioner).

FOR FURTHER INFORMATION CONTACT: Patricia Rawlings (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 89–443, adopted September 20, 1989, and released October 10, 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.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Karl A. Kensinger,

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

[FR Doc. 89–24559 Filed 10–17–89; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 89–444, RM–6861]

Radio Broadcasting Services; Pulaski, VA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by New River Media Group, Inc., licensee of Station WPSK(FM), Channel 296A, Pulaski, Virginia, proposing the substitution of Channel 296C3 for Channel 296A at Pulaski, and the modification of the station's license to specify operation on the higher class co-channel accordingly. The proposed upgrade can be accomplished at the current transmitter site of Station WPSK(FM) if a current pending application for Channel 296A, Hot Springs, Virginia, is granted. The coordinates are 37–01–28 and 80–44–47. The community could receive its first wide coverage area FM service.

DATES: Comments must be filed on or before December 1, 1989, and reply comments on or before December 18, 1989.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant, as follows: Robert J. Rini, Esquire, Brown, Finn & Nietert, Chartered, 1920 N Street, NW., Suite 660, Washington, DC 20036 (Counsel for petitioner).

FOR FURTHER INFORMATION CONTACT: Patricia Rawlings (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 89–444, adopted September 20, 1989, and released October 10, 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.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Karl A. Kensinger,

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

[FR Doc. 89–24560 Filed 10–17–89; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 89–448, RM–6612]

Television Broadcasting Services; Montgomery, AL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed on behalf of Troy State University, seeking to delete the educational reservation on Channel *63 at Montgomery, Alabama, to make it available for commercial application. Coordinates used for this proposal are 32°22′54″ and 86°18′30″.

DATES: Comments must be filed on or before December 4, 1989, and reply comments on or before December 19, 1989.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: M. Scott Johnson and Lynn E. Shapiro, Esqs., Gardner, Carton & Douglas, 1001 Pennsylvania Avenue, NW., Suite 750, Washington, DC 20004.

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

SUPPLEMENTARY INFORMATION: This is synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 89–448, adopted September 19, 1989, and released October 11, 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.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Federal Communications Commission.

Karl A. Kensinger,

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

[FR Doc. 89-24556 Filed 10-17-89; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 89-441, RM-6813]

Television Broadcasting Services; Calipatria, CA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Calipatria Television, seeking the allotment of UHF television Channel 54 to Calipatria, California, as that community's first local television broadcast service. Coordinates used for this proposal are 33-04-37 and 115-19-46.

Although the Commission has imposed a freeze on new TV allotments in specified metropolitan areas pending the outcome of an inquiry into the uses of advanced television systems (ATV) in broadcasting, this proposal is not affected thereby.

DATES: Comments must be filed on or before December 1, 1989, and reply comments on or before December 18, 1989.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Michael L. Glaser and Joseph P. Benkert, Esqs., Gardner, Carton & Douglas, Republic Plaza, 370-17th St., Suite 2200, Denver, CO 80202-3520.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 89-441, adopted September 19, 1989, and released October 10, 1989. The full text of this Commission decision is available for inspection and copying during normal buriness 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.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Federal Communications Commission.

Karl A. Kensinger,

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

[FR Doc. 89-24557 Filed 10-17-89; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 541

[Docket No. T84-01; Notice 21]

Passenger Motor Vehicle Theft Data for 1988; Request for Comments

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Request for comments.

SUMMARY: This notice seeks public comment regarding data on passenger motor vehicle thefts that occurred in 1988. These data were based on information provided to NHTSA by the National Crime Information Center (NCIC) of the Federal Bureau of Investigation (FBI). These 1988 theft data indicate that vehicle thefts in 1988 increased above the 1983/1984 level. Of the 171 lines sold in the United States during 1988, 120 of the lines (70.2 percent) had theft rates that exceeded the median theft rate for 1983/1984.

DATE: All comments on this notice must be received by NHTSA not later than December 4, 1989.

ADDRESS: Comments should refer to Docket No. T84-01; Notice 21, and be submitted to: Docket Section, NHTSA, Room 5109, 400 Seventh Street SW., Washington, DC 20590, (202 366-4949).

FOR FURTHER INFORMATION CONTACT: Ms. Barbara Kurtz, Office of Market Incentives, NHTSA, 400 Seventh Street SW., Washington, DC 20590, (202 366-4808).

SUPPLEMENTARY INFORMATION: Title VI of the Motor Vehicle Information and Cost Savings Act (the Cost Savings Act), 15 U.S.C. 2021 *et seq.*, directs NHTSA to promulgate a motor vehicle theft prevention standard applicable to high-theft car lines. Section 603(a)(1) of the Cost Savings Act (15 U.S.C. 2023(a)(1)), specifies that three types of car lines are high theft lines within the meaning of title VI:

(1) Existing lines that had a theft rate exceeding the median theft rate in 1983 and 1984;

(2) New lines that are likely to have a theft rate exceeding the 1983-84 median theft rate; and

(3) Lines with theft rates below the 1983-84 median theft rate, but which have a majority of major part interchangeable with lines whose theft rates exceeded or are likely to exceed the median theft rate.

Section 603(b) of the Cost Savings Act explains how the agency is to determine whether existing lines had a theft rate that exceeded the 1983-84 median theft rate. Section 603(b)(3) directs NHTSA to

> obtain from the most reliable source or sources accurate and timely theft and recovery data and publish such data for review and comment. To the greatest extent possible, [NHTSA] shall utilize theft data reported by Federal, State, or local police. After such publication and opportunity for comments, [NHTSA] shall utilize the theft data to determine the median theft rate under this subsection.

In accordance with this statutory directive, NHTSA published a final notice on November 12, 1985, setting forth the 1983-1984 theft data, 50 FR 46666. Based on those data, NHTSA calculated the median theft rate for purposes of title VI as 3.2712 thefts per 1000 vehicles produced.

Although the Cost Savings Act provides that the calculation of the median theft rate is a one-time event, subsection 603(b)(3) directs the agency to continue to collect and publish theft data on a periodic basis. The publication of national data should serve to inform the public, particularly law enforcement groups, automobile manufacturers, and Congress, of the extent of the vehicle theft problem and the impact, if any, on vehicle thefts as a result of the Federal motor vehicle theft prevention standard. To carry out this purpose, this notice sets forth the theft rates for the 171 lines of passenger motor vehicles sold in the United States for the 1988 model year, based on information provided by the NCIC.

These 1988 theft data show an increase in vehicle thefts above the levels experienced in 1983–1984. As earlier noted, for 1983/1984, the median theft rate was 3.2712 thefts per 1000 vehicles produced. For model years 1985 through 1988, the median increased to 3.4539, 3.6023, 4.1476, and 4.4158, respectively. The corresponding percentage of car lines per year that exceeded the 1983/1984 median theft rate also increased to 55 percent, 58.6 percent, 67.2 percent, and 70.2 percent, respectively. For 1988, 120 of the 171 lines, or 70.2 percent, exceeded 3.2712 thefts per 1000 vehicles produced. For model year 1988, the second effective year of the theft prevention standard, the 4.4158 median theft rate represents a 35 percent increase in the median since model years 1983/1984, and a 6.5 percent increase over model year 1987.

In calculating the 1988 theft data, the agency followed the same approach it used in calculating the 1983–1984 median theft rate, in that it has sought to eliminate multiple countings of the same theft by excluding all duplicate vehicle identification numbers (VINs) of stolen vehicles reported within seven calendar days of each other. This approach takes into account the possibility that a vehicle might actually be stolen more than once during a particular calendar year, but that it is highly unlikely to be stolen more than once in a week.

Interested persons are invited to submit comments on these data. It is requested but not required that 10 copies be submitted.

All comments must not exceed 15 pages in length. (49 CFR part 553.21) Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation. (49 CFR part 512).

All comments received before the close of business on the comment closing date indicated above for the data will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered before publication of the final 1988 theft data. Comments on this notice will be available for inspection in the docket. The NHTSA will continue to file relevant information as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose a self-addressed, stamped postcard in the envelope with their comments. Upon receiving the comments, the docket supervisor will return the postcard by mail.

Authority: 15 U.S.C. 2023; delegations of authority at 49 CFR 1.50 and 49 CFR 501.8.

Issued on: October 12, 1989.

Barry Felrite.

Associate Administrator for Rulemaking.

TABLE 1.—MODEL YEAR 1988 THEFT RATES FOR CARS PRODUCED IN CALENDAR YEAR 1988

	Manufacturer	Make/model (Line)	Thefts 1988	Production (Mfgr's) 1988	Theft rate (thefts/product) (1988) (1,000's)
1	General Motors	Pontiac Firebird/Trans Am	1,659	56,449	29.3894
2	General Motors	Chevrolet Camaro	2,329	90,484	25.7394
3	General Motors	Chevrolet Monte Carlo	674	28,603	23.5640
4	Mitsubishi	Cordia	86	4,119	20.8789
5	Mitsubishi	Starion	78	3,945	19.7719
6	Chrysler Corp.	Chrysler Conquest	178	9,581	18.5784
7	Mitsubishi	Mirage	323	17,735	18.2126
8	Aston Martin	Saloon Vantage/Volante	1	56	17.8571
9	Volkswagen	Cabriolet	185	10,931	16.9243
10	General Motors	Pontiac Fiero	381	25,371	15.0171
11	Hyundai	Excel	3,326	231,551	14.3640
12	Porsche	911	93	6,532	14.2376
13	Volkswagen	Scirocco	50	3,690	13.5501
14	Alfa Romeo	Milano	24	1,870	12.8342
15	General Motors	Cadillac Brougham	580	48,964	11.8454
16	Porsche	928	19	1,613	11.7793
17	General Motors	Chevrolet Corvette	223	21,282	10.4783
18	Toyota	Supra	209	20,122	10.3866
19	Toyota	MR2	98	9,571	10.2393
20	Nissan	300ZX	206	20,224	10.1859
21	General Motors	Pontiac Bonneville	973	96,356	10.0980
22	Isuzu	I-Mark	248	24,684	10.0470
23	Chrysler Corp	Dodge 600	166	17,080	9.7190
24	Isuzu	Impulse	88	9,070	9.7023
25	Ford Motor Co	Ford Mustang	1,750	180,724	9.6833
26	General Motors	Cadillac Seville	214	22,432	9.5399
27	Chrysler Corp	Dodge Shadow	853	91,304	9.3424
28	Honda	Prelude	688	77,601	8.8659
29	General Motors	Chevrolet Spectrum	529	61,377	8.6189
30	Volkswagen	Jetta	514	59,899	8.5811
31	Chrysler Corp	LeBaron Coupe/Convertible	686	85,956	7.9808
32	General Motors	Cadillac Fleetwood/DeVille	1,163	147,000	7.9116
33	Chrysler Corp	Chrysler Fifth Avenue/Newport	342	43,416	7.8773
34	Mitsubishi	Galant Sigma	71	9,027	7.8653

TABLE 1.—MODEL YEAR 1988 THEFT RATES FOR CARS PRODUCED IN CALENDAR YEAR 1988—Continued

	Manufacturer	Make/model (Line)	Thefts 1988	Production (Mfgr's) 1988	Theft rate (thefts/product) (1988) (1,000's)
35	Mazda	323	791	101,161	7.8192
36	Ford Motor Co	Lincoln Continental	287	39,148	7.3312
37	Chrysler Corp	Plymouth Sundance	629	87,132	7.2189
38	General Motors	Pontiac Sunbird	488	70,380	6.9338
39	Nissan	Maxima	434	64,928	6.6843
40	General Motors	Chevrolet Cavalier	1,813	278,279	6.5150
41	BMW	3	192	29,550	6.4975
42	General Motors	Oldsmobile Delta 88 Royale	941	145,555	6.4649
43	Ford Motor Co	Ford Thunderbird	902	139,717	6.4559
44	Chrysler Corp	Dodge Daytona	417	65,187	6.3970
45	AMC/Renault/Chrysler	Eagle Medallion	149	23,413	6.3640
46	Porsche	924	13	2,061	6.3076
47	Volvo	780	9	1,457	6.1771
48	General Motors	Buick Riviera	51	8,290	6.1520
49	Chrysler Corp	Plymouth Caravelle	102	16,895	6.0373
50	General Motors	Chevrolet Impala/Caprice	798	132,963	6.0017
51	General Motors	Cadillac Allante	14	2,444	5.7283
52	General Motors	Pontiac 6000	502	88,270	5.6871
53	Ford Motor Co	Mercury Cougar	668	113,972	5.6856
54	Mazda	RX-7	221	39,166	5.6426
55	General Motors	Oldsmobile Toronado	90	16,106	5.5880
56	Chrysler Corp	Plymouth Colt/Colt Vista	252	45,141	5.5825
57	Porsche	944	33	5,931	5.5640
58	Chrysler Corp	Chrysler New Yorker	394	70,914	5.5560
59	Nissan	Pulsar	234	42,355	5.5247
60	Nissan	200 SX	97	17,597	5.5123
61	General Motors	Buick LeSabre	672	122,415	5.4895
62	General Motors	Oldsmobile 98/Touring	393	73,647	5.3363
63	General Motors	Chevrolet Beretta/Corsica	2,804	526,011	5.3307
64	Chrysler Corp	Dodge Colt/Colt Vista	269	50,716	5.3040
65	Ford Motor Co	Ford Escort/Exp	2,148	405,313	5.2996
66	Nissan	Sentra	1,354	259,171	5.2243
67	Chrysler Corp	Chrysler New Yorker Turbo	45	8,787	5.1212
68	Toyota	Cressida	59	11,795	5.0021
69	Mercedes-Benz	560SL	62	12,444	4.9823
70	General Motors	Oldsmobile Cutlass Supreme	556	112,333	4.9496
71	Ford Motor Co	Mercury Tracer	451	91,702	4.9181
72	Ford Motor Co	Lincoln Town Car	947	193,576	4.8921
73	General Motors	Cadillac Cimarron	31	6,377	4.8612
74	Chrysler Corp	Chrysler Lebaron/Town & Country	128	26,346	4.8584
75	Toyota	Celica	338	69,626	4.8545
76	Chrysler Corp	Dodge Lancer	45	9,282	4.8481
77	Ford Motor Co	Lincoln Mark VII	174	36,319	4.7909
78	General Motors	Pontiac Parisienne/Safari S/W	26	5,470	4.7532
79	Chrysler	Dodge Dynasty	257	55,328	4.6450
80	Ford Motor Co	Ford Tempo	1,239	267,401	4.6335
81	Ferrari	Mondial	1	216	4.6296
82	General Motors	Chevrolet Sprint	248	53,918	4.5996
83	Volkswagen	Golf/GTI	123	27,045	4.5480
84	Toyota	Corolla/Corolla Sport	988	218,280	4.5263
85	General Motors	Oldsmobile Cutlass Ciera	1,013	228,094	4.4412
86	Yugo	GV/GVX/GVL	166	37,592	4.4158
87	General Motors	Oldsmobile Cutlass Calais	455	103,111	4.4127
88	General Motors	Buick Electra	377	86,183	4.3744
89	Nissan	Stanza	171	39,370	4.3434
90	General Motors	Pontiac Grand Prix	341	78,541	4.3417
91	General Motors	Buick Skylark	220	52,494	4.1910
92	Suburu	XT	68	16,272	4.1790
93	Honda/Acura	Integra	217	52,340	4.1460
94	Toyota	Camry	904	219,155	4.1249
95	Chrysler Corp	Dodge Aries	453	110,907	4.0845
96	General Motors	Buick Electra/LeSabre Estate Wagon	36	8,848	4.0687
97	Chrysler Corp	LeBaron GTS	56	14,102	3.9711
98	Rolls-Royce/Bentley	Corniche/Continental/Mulsanne	2	504	3.9683
99	Ford Motor Co	Mercury Topaz	315	79,844	3.9452
100	General Motors	Buick Skyhawk	107	27,803	3.8485
101	Ford Motor Co	Mercury Sable	425	110,489	3.8465
102	General Motors	Chevrolet Celebrity	961	250,028	3.8436
103	General Motors	Oldsmobile Firenza	43	11,316	3.7999
104	Subaru	Justy	78	21,049	3.7056
105	Ford Motor Co	Ford Festiva	357	98,290	3.6321
106	General Motors	Buick Century	377	105,717	3.5661
107	Alfa Romeo	Spider Veloce 2000	8	2,256	3.5461
108	Toyota	Tercel	398	112,327	3.5432
109	Mercedes-Benz	300SEL	18	5,112	3.5211
110	General Motors	Buick Regal	428	121,774	3.5147

TABLE 1.—MODEL YEAR 1988 THEFT RATES FOR CARS PRODUCED IN CALENDAR YEAR 1988—Continued

	Manufacturer	Make/model (Line)	Thefts 1988	Production (Mfgr's) 1988	Theft rate (thefts/product) (1988) (1,000's)
111	Ford Motor Co	Ford Taurus	1,263	361,038	3.4982
112	Daihatsu	Charade	47	13,522	3.4758
113	BMW	6	10	2,889	3.4614
114	Honda/Acura	Legend	281	81,826	3.4341
115	Mercedes-Benz	260E	21	6,188	3.3937
116	Mercedes-Benz	190D/E	52	15,414	3.3736
117	Austin Rover	Sterling	35	10,401	3.3651
118	BMW	7	72	21,484	3.3513
119	General Motors	Pontiac Grand Am	722	216,641	3.3327
120	Mercedes-Benz	300CE	9	2,731	3.2955
121	Mazda	929	92	28,749	3.2001
122	General Motors	Cadillac Eldorado	103	32,560	3.1634
123	General Motors	Pontiac LeMans	535	170,126	3.1447
124	Mercedes-Benz	300E	46	14,682	3.1331
125	Chrysler Corp	Plymouth Reliant	390	124,744	3.1264
126	Mercedes-Benz	560SEC	5	1,623	3.0807
127	Lotus	Espirt	1	325	3.0769
128	Ford Motor Co	Merkur XR4TI	19	6,271	3.0298
129	Mercedes-Benz	420SEL	24	7,960	3.0151
130	Honda	Accord	1,231	410,583	2.9982
131	Volkswagen	Fox	227	75,828	2.9936
132	Mercedes-Benz	560SEL	16	5,361	2.9845
133	General Motors	Oldsmobile Custom Cruiser Wagon	31	10,454	2.9654
134	Ford Motor Co	Mercury Grand Marquis	318	109,375	2.9074
135	General Motors	Buick Reatta	13	4,479	2.9024
136	Volvo	740/760	150	52,484	2.8580
137	Subaru	Subaru	192	67,838	2.8303
138	General Motors	Chevrolet Nova	308	109,196	2.8206
139	Jaguar	XJ6	63	22,753	2.7689
140	Volkswagon	Quantum	8	2,970	2.6936
141	Suzuki	Forsa	12	4,587	2.6161
142	Saab	900	97	37,171	2.6096
143	BMW	5	55	22,409	2.4544
144	Honda	Civic	544	225,907	2.4081
145	AMC/Renault-Chrysler	Eagle Premier	94	40,326	2.3310
146	Saab	9000	33	14,765	2.2350
147	Mazda	626	223	108,799	2.0497
148	Ford Motor Co	Ford Ltd/Crown Victoria	233	114,678	2.0318
149	Chrysler Corp	Plymouth Horizon	119	61,051	1.9492
150	Chrysler Corp	Dodge Omni	115	59,181	1.9432
151	Volvo	240 DL/GL	76	40,894	1.8585
152	Chrysler Corp	Plymouth Gran Fury	21	11,422	1.8386
153	Ferrari	328	1	560	1.7857
154	Ford Motor Co	Merkur Scorpio	28	16,067	1.7427
155	Mitsubishi	Precis	44	26,307	1.6726
156	Audi	80 & 90 Series	24	16,014	1.4987
157	Audi	5000S/Quattro	10	7,910	1.2642
158	Mitsubishi	Tredia	4	3,514	1.1383
159	Mercedes-Benz	300SE	4	3,600	1.1111
160	Chrysler Corp	Dodge Diplomat	18	19,165	0.9392
161	Peugeot	505	6	8,128	0.7382
162	Mercedes-Benz	300TE	2	2,738	0.7305
163	Bertone	X-1/9	1	2,000	0.5000
164	Jaguar	XJ-S	2	5,662	0.3532
165	Ferrari	Testarossa	0	376	0.0000
166	Excalibur	Phaeton/Roadster	0	79	0.0000
167	Aston Martin	Lagonda	0	9	0.0000
168	Zimmer	Classic/Elegante/Cabriolet	0	170	0.0000
169	Rolls-Royce/Bentley	Camargue/Silver Spirit/Silver Spur	0	711	0.0000
170	Bitter GMBH	Bitter SC	0	82	0.0000
171	TVR	2801	0	225	0.0000

[FR Doc. 89-24524 Filed 10-17-89; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Notice of Finding on a Petition to List

Cladonia perforata (Perforate Reindeer Lichen)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of finding on petition.

SUMMARY: The U.S. Fish and Wildlife Service announces a 90-day petition finding for a petition to amend the List of Endangered and Threatened Plants. Substantial information has been presented that a petition to list the lichen *Cladonia perforata* (perforate reindeer lichen), from Florida, is warranted. Formal review of the status of *Cladonia perforata* is initiated herewith.

DATES: The finding announced in this notice was made in August 1989. Comments and information may be submitted until further notice.

ADDRESSES: Information, comments, or questions should be sent to the Field Supervisor, Jacksonville Field Office, U.S. Fish and Wildlife Service, 3100 University Boulevard South, Suite 120, Jacksonville, Florida 32216.

FOR FURTHER INFORMATION CONTACT: David J. Wesley, Field Supervisor, at the above address (telephone: 904/791–2580 or FTS 946–2580).

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(A) of the Endangered Species Act of 1973 (Act), as amended in 1982 (16 U.S.C. 1531 *et seq.*) requires that the U.S. Fish and Wildlife Service (Service) make a finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information to demonstrate that the petitioned action may be warranted. To the maximum extent practicable, this finding is to be made within 90 days of the receipt of the petition, and the finding is to be published promptly in the **Federal Register**. If the finding is positive, the Service is also required to promptly commence a review of the status of the species.

Ann Buckley, a staff member of the George M. Gray Museum, Marine Biological Laboratory, Woods Hole, Massachusetts, submitted a petition to list *Cladonia perforata* as an endangered species. The petition, dated May 28, 1989, was received by the Service on June 5, 1989.

The petition cited rapid development of the limited scrub habitat occupied by *Cladonia perforata* on the Lake Wales Ridge of central Florida as the primary threat to the lichen, combined with the frequency of fire in the remaining habitat (fires destroy group dwelling lichens). The petition cited the results of a lichen inventory at and near Archbold Biological Station in Highlands County, central Florida (Buckley and Hendrickson 1988), as well as the results of a search for this lichen by Dr. James Burkhalter and Dr. Gerould Wilhelm in May 1989 at Elgin Air Force Base and Santa Rosa Island on the Gulf coast of western Florida. Burkhalter and Wilhelm relocated a previously known population of the lichen and plan to publish a note on the discovery (file information, Florida Natural Areas Inventory). The site may be vulnerable to washover during hurricanes; in addition, the site is open to public use and is therefore subject to trampling by visitors (letter from Dr. Ann F. Johnson, Florida Natural Areas Inventory).

In central Florida's Highlands County, the loss of scrub habitat is already well documented; the Service has listed eight plants and three animals native to scrub vegetation in this county as endangered or threatened species, has prepared a recovery plan for one of the plants (Fish and Wildlife Service 1987) and is drafting another recovery plan for scrub plant species (Fish and Wildlife Service 1989). The draft plan summarizes the threats to scrub vegetation and prescribes conservation measures. To the extent that the plan is implemented, it may reduce the threats to *Cladonia perforata*.

Before proposing to list *Cladonia perforata* as an endangered or threatened species, the Service should ensure that the true geographic distribution of this lichen is known. This will require searches of areas with excessively drained white sand soil, scrub vegetation, and populations of ground-dwelling lichens in bare sunny areas where fires or other severe disturbances occur very rarely. Appropriate places to search include the Gulf Coast barrier islands from Mobile to Panama City, the Cedar Key area, the Atlantic Coastal Ridge on the east coast of Florida, and inland scrub vegetation in the Ocala National Forest and on the Lake Wales Ridge in Polk County. Because this lichen apparently has a very specialized habitat, and because this lichen is easy to recognize throughout the year, effecting searches are feasible. Despite the need for further searches, the Service found that the petition and its supporting data presented substantial information indicating that the requested action may be warranted.

Review of the status of *Cladonia perforata* is initiated with publication of this notice. The Service would appreciate any additional data, comments, and suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any interested party concerning *Cladonia perforata*.

Author

This notice was prepared by Mr. David Martin, Jacksonville Field Office, U.S. Fish and Wildlife Service, 3100 University Boulevard South, Suite 120, Jacksonville, Florida 32216 (904/791–2580 or FTS 946–2580).

References

Buckley, A., and T.O. Hendrickson. 1988. Thje distribution of *Cladonia perforata* Evans on the southern Lake Wales Ridge in Highlands County, Florida. The Bryologist 91:354–356.

Fish and Wildlife Service. 1987. Recovery plan for three Florida mints. Fish and Wildlife Service, Southeast Region, Atlanta, GA. 21 pp.

Fish and Wildlife Service. 1989. Agency draft recovery plan for eleven central Florida plants. Fish and Wildlife Service, Southeastern Region, Atlanta, GA. 56 pp. + maps, tables.

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Fish, Marine mammals, Plants (agriculture).

Dated: October 3, 1989.

Richard N. Smith,

Acting Director, Fish and Wildlife Service.

[FR Doc. 89–24580 Filed 10–17–89; 8:45 am]

BILLING CODE 4310–55–M

50 CFR Part 17

RIN 1018–AB36

Endangered and Threatened Wildlife and Plants; Proposed Threatened Status for Harrisia portoricensis

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to determine a cactus, *Harrisia portoricensis* (higo chumbo), to be a threatened species pursuant to the Endangered Species Act (Act) of 1973, as amended. Historically, *Harrisia portoricensis* was known from the offshore islands of Mona, Monito, and Desecheo and one area on mainland Puerto Rico. Deforestation for industrial and urban development has extirpated the species from the mainland. This endemic cactus is threatened by potential development projects on Mona Island and by impacts to vegetation from feral goats and pigs. This proposal, if made final, would implement the Federal protection and recovery provisions afforded by the Act for *Harrisia portoricensis*. The Service seeks data and comments from the public on this proposal.

DATES: Comments from all interested parties must be received by December 18, 1989. Public hearing requests must be received by December 4, 1989.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Field Supervisor, Caribbean Field Office, U.S. Fish and Wildlife Service, P.O. Box 491, Boquerón, Puerto Rico 00622. Comments and materials received will be available for public inspection, by appointment, at this office during normal business hours, and at the Service's Southeast Regional Office, Suite 1282, 75 Spring Street SW., Atlanta, Georgia 30303.

FOR FURTHER INFORMATION CONTACT: Ms. Susan Silander at the Caribbean Field Office address (809/851–7297) or Mr. Tom Turnipseed at the Atlanta Regional Office address (404/331–3583 or FTS 242–3583).

SUPPLEMENTARY INFORMATION:

Background

Harrisia portoricensis (higo chumbo) was first collected by N.L. Britton in 1908 in southern Puerto Rico from an area to the west of Ponce called "Las Cucharas." However, urban, industrial, and agricultural expansion has resulted in the elimination of this population. Today it is known only from three small islands off the west coast of Puerto Rico: Mona, Monito and Desecheo.

This endemic cactus was placed in the genus *Harrisia* together with species from other Caribbean Islands and Florida by Britton in 1908 (Bull. Torr. Club 35:561). In 1910 Weingart transferred members of this genus to *Cereus* along with other columnar cacti (*In* Urban, Symbolae Antillanae 4:430). However, the treatment of *Harrisia* as distinct prevailed until recently when the grouping of columnar cacti into the genus *Cereus* once again began to gain acceptance (Vivaldi and Woodbury 1981). Liogier and Martorell (1982) in their flora of Puerto Rico and adjacent islands retain the taxon as a species in the genus *Harrisia*, and it has been treated as such here.

Harrisia portoricensis is a slender, upright, columnar cactus. It is usually unbranched and may reach up to 6 feet (2 meters) tall and 3 inches (7 centimeters) in diameter. It has from 8 to 11 ribs separated by shallow grooves. Spines from 1 to 3 inches (2 to 7 centimeters) long occur in groups approximately ½ to ¾ inches (1 to 2 centimeters) apart. Opening at night, the funnel-shaped flowers are greenish-white and may reach 6 inches (13 centimeters) in length. Fruits are a round, yellow berry without spines (Vivaldi and Woodbury 1981). Numerous black seeds are immersed in a white pulp. These fruits are a preferred food of the endangered yellow-shouldered blackbird (*Agelaius xanthomus*) on the island of Mona (Department of Natural Resources 1986).

The species is restricted to the islands of Mona, Monito, and Desecheo; all three islands are located in the Mona Passage between Puerto Rico and the Dominican Republic. These islands are composed of carbonate rocks, stratified limestone and dolomite, reef rock, and boulder rubble. Annual rainfall is only 32 inches (70 centimeters) in this semiarid climate. *Harrisia portoricensis* is primarily limited to, but common in, the semi-open xerophytic forest type associated with other species of columnar cacti.

Harrisia portoricensis was recommended for Federal listing by the Smithsonian Institution (Ayensu and DeFilipps 1978). The species was included among the plants being considered as endangered or threatened species by the Service, as published in the **Federal Register** (45 FR 82480) dated December 15, 1980; the November 28, 1983, update (48 FR 53680) of the 1980 notice; and the September 27, 1985, revised notice (50 FR 39526). The species was designated Category 1 (species for which the Service has substantial information supporting the appropriateness of proposing to list them as endangered or threatened) in each of the three notices.

In a notice published in the **Federal Register** on February 15, 1983 (48 FR 6752), the Service reported the earlier acceptance of the new taxa in the Smithsonian's 1978 book as under petition within the context of Section 4(b)(3)(A) of the Act, as amended in 1982. The Service made subsequent petition findings in each October of 1983 through 1988 that listing *Harrisia portoricensis* was warranted but precluded by other pending listing actions of a higher priority, and that additional data on vulnerability and threats were still being gathered. This proposed rule constitutes the final 1-year finding in accordance with Section 4(b)(3)(B)(ii) of the Act.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act set forth the procedures for adding species to the Federal lists. A species may be determined to be endangered or threatened due to one or more of the five factors described in Section 4(a)(1). These factors and their application to *Harrisia portoricensis* Britton (higo chumbo) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* Destruction and modification of habitat have been, and continue to be, significant factors reducing the numbers of *Harrisia portoricensis*. Dry forests similar to that on Mona and Desecheo once covered much of southern and southwestern Puerto Rico. These have been destroyed or modified for urban, industrial and agricultural development. The cactus is no longer found in the Ponce area, its type location. The islands of Mona and Monito are currently managed as wildlife reserves by the Puerto Rico Department of Natural Resources. However, in the past, various proposals have been presented for using Mona Island, which has the vast majority of the habitat, as a superport and oil storage facility and as a prison. Desecheo is currently protected as a National Wildlife Refuge; however, it was once managed as a breeding colony for monkeys by the National Institute of Health. All three islands have been utilized in the past for bombing practice by the U.S. Navy.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* Taking for these purposes has not been a documented factor in the decline of this species; however, problems with the take of cacti in Puerto Rico continue, even on public lands, despite their protection. Should the species be reintroduced onto mainland Puerto Rico, take could become a problem. Trade in all American species of cactus is regulated by the Convention on International Trade in Endangered

Species of Wild Fauna and Flora (CITES), Appendix II.

C. *Disease or predation.* The larvae of the cactus moth (*Cactoblastis cactorum*) has caused damage to *Harrisia portoricensis* in the past, but the moth has not been observed recently. Feral pigs on Mona uproot the cactus while searching for edible roots. Feral goats on both Mona and Desecheo forage on a variety of species and may be responsible for shifts in vegetation composition.

D. *The inadequacy of existing regulatory mechanisms.* The Commonwealth of Puerto Rico has adopted a regulation that recognizes and provides protection for certain Commonwealth listed species. However, *Harrisia portoricensis* is not yet on the Commonwealth list. Federal listing would provide interim protection and, if the species is ultimately placed on the Commonwealth list, enhance its protection and possibilities for funding needed research.

E. *Other natural or manmade factors affecting its continued existence.* One of the most important factors affecting the continued survival of *Harrisia portoricensis* is its limited distribution, which increases its vulnerability to threats listed under factors A and C above. These threats include potential habitat loss from development and the impacts from feral goats and pigs.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to propose this rule. Based on this evaluation, the preferred action is to list *Harrisia portoricensis* as threatened. The species is restricted to only three small islands to the west of mainland Puerto Rico, the primary one of which is subject to habitat destruction and modification by development projects, and two of which are impacted by feral animals. However, because plants of all sizes and ages have been observed (Vivaldi and Woodbury 1981), threatened rather than endangered status seems an accurate assessment of the species' condition. The reasons for not proposing critical habitat for this species are discussed below in the "Critical Habitat" section.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that to the maximum extent prudent and determinable, the Secretary designate any habitat of a species which is considered to be critical habitat at the time the species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not prudent for this species at this time. Mona Island has been designated critical habitat for the yellow-shouldered blackbird (*Agelaius xanthomus*), the Mona ground iguana (*Cyclura stejnegeri*), and the Mona boa (*Epicrates monensis monensis*); and Monito Island has been designated as critical habitat for the Monito gecko (*Sphaerodactylus micropithecus*). The Service believes that Federal involvement in the areas where this plant occurs can be identified without the designation of critical habitat. All involved parties and landowners have been notified of the location and importance of protecting this species' habitat. Protection of this species' habitat will also be addressed through the recovery process and through the Section 7 jeopardy standard.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, Commonwealth, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the Commonwealth, and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. The protection required of Federal agencies and the prohibitions against certain activities involving listed plants are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) requires Federal agencies to confer informally with the Service on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. If a species is subsequently listed, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may adversely affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. No critical habitat is being proposed for *Harrisia portoricensis*, as discussed above. The only Federal involvement anticipated for the immediate future would be within the Service relative to possible goat control on the Desecheo National Wildlife Refuge, and possibly on Mona and Monito Islands relative to Service-administered grant-in-aid projects.

The Act and its implementing regulations found at 50 CFR 17.71 and 17.72 set forth a series of general trade prohibitions and exceptions that apply to all threatened plants. All trade prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.71, would apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, sell or offer for sale this species in interstate or foreign commerce, or to remove and reduce to possession the species from areas under Federal jurisdiction. Seeds from cultivated specimens of threatened plant species are exempt from these prohibitions provided that a statement of "cultivated origin" appears on their containers. In addition, for listed plants, the 1988 amendments (Pub. L. 100–478) to the Act prohibit the malicious damage or destruction on Federal lands and the removal, cutting, digging up, or damaging or destroying of listed plants in knowing violation of any Commonwealth law or regulation, including Commonwealth criminal trespass law. Certain exceptions apply to agents of the Service and Commonwealth conservation agencies. The Act and 50 CFR 17.72 also provide for the issuance of permits to carry out otherwise prohibited activities involving threatened species under certain circumstances. It is anticipated that few trade permits for *Harrisia portoricensis* will ever be sought or issued, since the species in not known to be in cultivation and wild populations are relatively inaccessible. Requests for copies of the regulations on plants and inquiries regarding them may be addressed to the Office of Management Authority, U.S. Fish and Wildlife Service, P.O. Box 3507, Arlington, Virginia 22203–3507 (703/358–2104).

Public Comments Solicited

The Service intends that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any

other interested party concerning any aspect of this proposed rule are hereby solicited. Comments particularly are sought concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to *Harrisia portoricensis;*

(2) The location of any additional populations of *Harrisia portoricensis,* and the reasons why any habitat should or should not be determined to be critical habitat as provided by section 4 of the Act;

(3) Additional information concerning the range and distribution of this spcies; and

(4) Current or planned activities in the subject areas and their possible impacts on *Harrisia portoricensis.*

Final promulgation of the regulation on *Harrisia portoricensis* will take into consideration the comments and any additional information received by the Service, and such communications may lead to adoption of a final regulation that differs from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be filed within 45 days of the proposal. Such requests must be made in writing and addressed to the Field Supervisor, Caribbean Field Office, U.S. Fish and Wildlife Service, P.O. Box 491, Boquerón, Puerto Rico 00622.

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

References Cited

Ayensu, E.S., and R.A. Defilipps. 1978. Endangered and threatened plants of the United States. Smithsonian Institution and World Wildlife Fund, Washington, D.C. xv + 403 pp.

Department of Natural Resources. 1986. Annual report for the yellow-shouldered blackbird project. San Juan, Puerto Rico.

Liogier, H.A., and L.F. Martorell. 1982. Flora of Puerto Rico and adjacent islands: a systematic synopsis. University of Puerto Rico, Río Piedras, Puerto Rico. 342 pp.

Vivaldi, J.L., and R.O. Woodbury. 1981. Status report on *Harrisia portoricensis* Britton. Unpublished status report submitted to the U.S. Fish and Wildlife Service, Atlanta, Georgia. 12 pp.

Woodbury, R.C., L.F. Martorell, and J.G. García-Turduri. 1977. The flora of Mona and Monito Islands, Puerto Rico (West Indies). Bulletin 252, Agricultural Experiment Station, University of Puerto Rico. Mayaguez.

The primary author of this proposed rule is Ms. Susan Silander, Caribbean Field Office, U.S. Fish and Wildlife Service, P.O. Box 491, Boquerón, Puerto Rico 00622 (809/851-7297).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Fish, Marine mammals, Plants (agriculture).

Proposed Regulation Promulgation

PART 17—[AMENDED]

Accordingly, it is hereby proposed to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1543; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500, unless otherwise noted.

2. It is proposed to amend § 17.12(h) by adding the following, in alphabetical order under Cactaceae, to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
*	*	*	*	*	*	*
Cactaceae—Cactus family:						
Harrisia (=Cereus) portoricensis	Higo chumbo	U.S.A. (PR)	T	NA	NA	
*	*	*	*	*	*	*

Dated: September 25, 1989.

Richard N. Smith,

Acting Director, Fish and Wildlife Service.

[FR Doc. 89-24581 Filed 10-17-89; 8:45 am]

BILLING CODE 4310-55-M

50 CFR Part 17

RIN 1018-AB36

Endangered and Threatened Wildlife and Plants; Proposed Threatened Status for Sagittaria secundifolia (Kral's water-plantain)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to determine an aquatic plant, *Sagittaria secundifolia* (Kral's water-plantain), to be a threatened species under the authority contained in the Endangered Species Act (Act) of 1973, as amended. This species is currently known only from a single population in the Little River system in northeast Alabama (De Kalb and Cherokee Counties) and northwest Georgia (Chattooga County). A historical population from Town Creek (De Kalb County, Alabama) has not been located and is believed destroyed. This species is extremely vulnerable due to its restricted range and the clearing of the river banks for silvicultural, residential, agricultural or mining purposes. This proposal, if made final, would implement Federal protection provided by the Act for *Sagittaria secundifolia.* The Service seeks data and comments from the public on this proposal.

DATES: Comments from all interested parties must be received by December 18, 1989. Public hearing requests must be received by December 4, 1989.

ADDRESSES: Comments and materials concerning this proposal should be sent to Complex Supervisor, U.S. Fish and Wildlife Service, Jackson Mall Office Center, 300 Woodrow Wilson Avenue, Suite 316, Jackson, Mississippi 39213. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Cary Norquist, at the above address (601/965-4900 or FTS 490-4900).

SUPPLEMENTARY INFORMATION:

Background

Kral (1982) described *Sagittaria secundifolia* from material collected by Cusick in 1972 from the Little River in Alabama. However, during his studies, Kral discovered earlier collections made in 1899 by the Biltmore Herbarium collectors from Little River and from Town Creek on Sand Mountain by Harper in 1951 (Kral 1982, Whetstone 1988). The Town Creek population in De Kalb County, Alabama, has not been relocated despite extensive searches and is believed destroyed (Kral 1982, 1983; Whetstone 1988). Currently *Sagittaria secundifolia* is only known to occur in the Little River drainage system of Lookout Mountain. This species is primarily located in the upper undammed reaches of the Little River in Cherokee and De Kalb Counties, Alabama. It has been collected from a single site in the East Fork of the Little River in Chattooga County, Georgia (Whetstone 1988, Whetstone *et al.* 1988). On rare occasions, individuals have been located near the mouth of tributaries (Whetstone 1988). Extensive surveys of other river systems with suitable habitat in northeast Alabama and northwest Georgia have been unsuccessful at locating additional populations (Whetstone 1988).

This species is a member of the water-plantain family (Alismataceae) and is in the "graminea" complex of *Sagittaria*. Distinguishing characters include a stout, elongated rhizome, hairy filaments, linear leaves and spreading or reflexed sepals (Kral 1982, Whetstone 1988).

Sagittaria secundifolia is a submersed to emersed aquatic perennial arising from a stiff elongated rhizome up to 10 centimeters (cm) (4 inches) in length. The leaves are of two types, depending upon the velocity and depth of the water it inhabits. In swift shallows, the leaves are linear, rigid and sickle-shaped, 5–8 cm (2–3 inches) long and 2–5 millimeters (mm) (0.08–0.20 inches) wide. In quite, deep waters, the leaves are more quill-like, being longer (10–30 cm) (4–12 inches), linear in shape and tapering. Separate male and female flowers are produced on a stalk, 10–50 cm (4–20 inches) long. The petals are inconspicuous in the female flowers: however, in the male flowers, they are white and 1.0–1.5 cm (0.4–0.6 inches) long. The fruit consists of a cluster of achenes approximately 2 mm (0.08 inch) in length. Although infrequent, flowering occurs from May into July and intermittently into the fall (Kral 1982, 1983).

This taxon typically occurs on frequently exposed shoals or rooted among loose boulders in quiet pools up to 1 meter (3 feet) in depth. Plants are locally distributed, where suitable habitat exists, and grow in pure stands or in association with various submergents including *Potamogeton, Najas,* and *Myriophyllum* and emergents such as *Justicia americana, Lindernia,* and *Polygonum.* The immediate banks are often dominated by a thicket of shrubs including *Alnus, Rhododendron, Kalmia, Lyonia,* and *Ilex.* Sphagnous seeps are frequent with *Carex, Rhynchospora, Eriocaulon, Panicum, Xyris,* and *Rhexia* among the common genera present. The stream bottoms are typically narrow and bounded by steep slopes (Kral 1982, Whetstone 1988). Two endangered plants, *Sarracenia oreophilia* and *Ptilimnion nodosum,* and several candidate plant (*Cuscuta harperi, Coreopsis pulchra, Allium speculae*) occur in associated habitats at several sites.

Approximately 40 percent of the habitat in Little River is owned by the Alabama Power Company, and 20 percent by the Alabama Department of Conservation and Natural Resources (DeSoto State Park). The remainder is in private ownership.

On September 27, 1985, the Service published a revised Notice of Review for plants in the **Federal Register** (50 FR 39526), which included *Sagittaria secundifolia* as a category 2 species. Category 2 comprises those taxa for which listing as endangered or threatened may be appropriate but existing information is insufficient to support a proposed rule. In 1986, the Service contracted a status survey to assess its rarity and evaluate threats to this species and its habitat. This report (Whetstone 1988) and other information support its proposed listing as a threatened species.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act set forth the procedures for adding species to the Federal lists. A species may be determined to be endangered or threatened due to one or more of the five factors described in Section 4(a)(1). These factors and their application to *Sagittaria secundifolia* Kral (Kral's water-plantain) are as follows:

A. *The present or threatened destruction, modification or curtailment of its habitat or range. Sagittaria secundifolia* is only known from the Little River drainage system in northeast Alabama and northwest Georgia. A major threat to this species is the elimination or adverse modification of its already limited habitat. Clearing of the adjacent river banks for silvicultural, residential-recreational development, surface mining or agricultural purposes poses a significant threat for this species. These activities contribute to water quality degradation and increase stream turbidity and siltation from erosion (Kral 1983, Whetstone 1988). Similar impacts likely caused the loss of the population and much of the suitable habitat in the Town Creek watershed (Kral 1982, 1983).

The Little River population may be adversely affected by eutrophication from garbage dumping and leaking sewage systems. Large quantities of human coliform bacteria were present in water samples taken at several sites along the Little River (Whetstone 1988). This eutrophication increases the presence of filamentous algae, which clings to individuals of *Sagittaria secundifolia.* Extreme water turbidity and dense filamentous algae decrease the amount of light available to the plants for growth and flowering.

A small number of sites are accessible by fords and are often a center for recreational activity, subjecting them to damage by off-road vehicle traffic.

Impoundments exist over large areas of presumed suitable habitat on the Little River and may have destroyed undocumented populations. Four large impoundments exist along a five mile stretch of the West Fork of the Little River and two are present below the Georgia locality on the East Fork. The impoundment of Lake Weiss in Cherokee County, Alabama, in the 1960s flooded suitable habitat along Yellow Creek and several miles of the Little River. In the past, dams along two creeks, which flow into the Little River, have broken and flooded portions of suitable habitat. Cracks and leaks have been observed on the dam above DeSoto Falls and a portion of a dam near the Georgia population has deteriorated (Whetstone 1988). Several existing populations are threatened by unstable impoundments that could break and eliminate or degrade populations and suitable habitat.

Approximately 33 percent of the habitat and associated local populations would be destroyed if a proposed hydroelectric impoundment is constructed on the Little River. In addition to flooding several local populations and changing stream flow dynamics, associated construction would cause excessive siltation and further degrade water quality

(Whetstone 1988). However, the Little River site is presently viewed as the least desirable site for this impoundment from an economic and environmental standpoint (John Grogan, Alabama Power Company, pers. comm., 1989).

B. *Over-utilization for commercial, recreational, scientific or educational purposes.* This species is not known to be a component of commercial trade; however, collection or vandalism could reduce populations in the more accessible sites.

C. *Disease or predation.* Disease and predation are not known to be factors affecting the continued existence of this species.

D. *The inadequacy of existing regulatory mechanisms. Sagittaria secundifolia* is informally listed as endangered in Alabama (Freeman 1984) and Georgia (T. Patrick, Georgia Heritage Program, pers. comm., 1989). However, this designation does not afford this species any legal status or protection. Plants located within the confines of the DeSoto State Park in Alabama are protected from collecting and adverse land use practices on the river banks. However, this provides protection for only 20 percent of the Little River population and the remaining sites are unprotected. The Act would strengthen existing protection, provide additional protection, and encourage active management for *Sagittaria secundifolia.*

E. *Other natural or manmade factors affecting its continued existence.* This species' occurrence in a single stream system makes it extremely vulnerable to any catastrophic event. Flooding is frequent and intense in certain areas, particularly those portions of the river within high canyon walls (Whetstone 1988). When such occurs, the water scours the bottom, uprooting the shallow-rooted *Sagittaria.* While a certain amount of flooding is natural, its detrimental effect is intensified due to the continuing loss of suitable habitat.

This species is clonal and reproduction is primarily asexual, which suggests there may be low genetic variability within this single existing population. Flowering was observed in only 1 percent of this *Sagittaria* and only in areas of direct sunlight and at a water level that allowed emergent leaves (Whetstone 1988). Many of the sites supporting local populations are in less than these optimum conditions for flowering: therefore, it is important to maintain as much suitable habitat as possible to encourage reproduction by sexual means. Sexual reproduction increases genetic variability, which enables species to adapt to changing conditions. Eight of the twelve local populations studied by Whetstone (1988) occur in pools and/or in partially wooded areas. Here, the number of plants ranged from 5 to 40 individuals. The remaining 4 local populations on the shallow shoals supported 75 to several hundred plants.

Algae blooms are common in the summer due to eutrophication in the Little River (see factor A). *Sagittaria secundifolia* was observed to be completely covered with a filamentous algae at times, and this may have an adverse effect on this species' vigor (Whetstone 1988).

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to propose this rule. Based on this evaluation, the preferred action is to list *Sagittaria secundifolia* as threatened.

Threatened status seems appropriate since this species is not in imminent danger of extinction. However, this species is extremely vulnerable due to its restricted range and could become endangered in the foreseeable future if protection measures are not taken. Critical habitat is not being designated for reasons discussed in the following section.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that, to the maximum extent prudent and determinable, the Secretary propose critical habitat at the time the species is proposed to be endangered or threatened. The Service finds that designation of critical habitat is not presently prudent for this species. Publication of critical habitat maps will increase public interest and possibly lead to additional threats for this species from collecting and vandalism, particularly at the many accessible sites along the river (see factor B in the "Summary of Factors Affecting the Species"). Taking is an activity difficult to control and only regulated by the Act with respect to plants in cases of (1) removal and reduction to possession of listed plants from lands under Federal jurisdiction, or their malicious damage or destruction on such lands; and (2) removal, cutting, digging up, or damaging or destroying in knowing violation of any State law or regulation, including State criminal trespass law. Such provisions are difficult to enforce and no benefit can be identified through critical habitat designation that would outweigh the potential threats of collecting and vandalism All State agencies and Alabama Power Company have been notified of the general location and importance of protecting this species' habitat. Protection of this species' habitat will be addressed through the recovery process and through the section 7 jeopardy standard. Therefore, it would not now be prudent to determine critical habitat for *Sagittaria secundifolia.*

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. The protection required of Federal agencies and the prohibitions against certain activities involving listed plants are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) requires Federal agencies to confer informally with the Service on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. If a species is listed subsequently, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service.

All known populations are under State or private ownership. A hydroelectric impoundment has been proposed for a site on the Little River where plants are known to occur. This would require a license from the Federal Energy Regulatory Commission. The Environmental Protection Agency would consider this species relative to pesticide use.

The Act and its implementing regulations found at 50 CFR 17.71 and

17.72 set forth a series of general trade prohibitions and exceptions that apply to all threatened plants. All trade prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.71, would apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, sell or offer for sale this species in interstate or foreign commerce, or to remove and reduce to possession the species from areas under Federal jurisdiction. Seeds from cultivated specimens of threatened plant species are exempt from these prohibitions provided that a statement of "cultivated origin" appears on their containers. In addition, for listed plants, the 1988 amendments (Pub. L. 100–478) to the Act prohibit the malicious damage or destruction on Federal lands and the removal, cutting, digging up, or damaging or destroying of listed plants in knowning violation of any State law or regulation, including State criminal trespass law. Certain exceptions apply to agents of the Service and State conservation agencies. The Act and 50 CFR 17.72 also provide for the issuance of permits to carry out otherwise prohibited activities involving threatened species under certain circumstances.

It is anticipated that few trade permits would ever be sought or issued because the species is not common in cultivation or in the wild. Requests for copies of the regulations on plants and inquiries regarding them may be addressed to the Office of Management Authority, U.S. Fish and Wildlife Service, P.O. Box 3507, Arlington, VA 22203 (703/358–2104).

Public Comments Solicited

The Service intends that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule are hereby solicited. Comments particularly are sought concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to this species;

(2) The location of any additional populations of this species and the reasons why any habitat should or should not be determined to be critical habitat as provided by section 4 of the Act;

(3) Additional information concerning the range, distribution, and population size of this species; and

(4) Current or planned activities in the subject area and their possible impacts on this species.

Final promulgation of the regulation on this species will take into consideration the comments and any additional information received by the Service, and such communications may lead to a final regulation that differs from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be received within 45 days of the date of publication of the proposal. Such requests must be made in writing and addressed to Complex Supervisor (see **ADDRESSES** section).

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

References Cited

Freeman, J.D. 1984. Vascular plant species critical to maintenance of floristic diversity in Alabama. Unpub. report. 23 pp.

Kral, R. 1982. A new phyllodial-leaved *Sagittaria* (Alismaceae) from Alabama. Brittonia 34:12–17.

Kral, R. 1983. A report on some rare, threatened, or endangered forest-related vascular plants of the South. USDA, Forest Service, Technical Publication R8–TP2. 1305 pp.

Whetsone, R.D. 1988. Status survey of *Sagittaria secundifolia*. Provided under contract to the U.S. Fish and Wildlife Service, Southeast Region, Atlanta, Georgia. 28 pp. + attachments.

Whetstone, R.D., C.L. Lawler, L.H. Hopkins, A.L. Martin, and C.C. Dickson. 1988 Kral's water-plantain, *Sagittaria secundifolia* Kral (Alismataceae), new to Georgia. Castanea 52:313–314.

Author

The primary author of this proposed rule is Cary Norquist (see **ADDRESSES** section) 601/965–4900 or FTS 490–4900.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Fish, Marine mammals, Plants (agriculture).

Proposed Regulation Promulgation

PART 17—[AMENDED]

Accordingly, it is hereby proposed to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1543; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

2. It is proposed to amend § 17.12(h) by adding the following, in alphabetical order under Alismataceae, to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
Alismataceae:						
*	*	*	*	*	*	
Sagittaria secundifolia	Kral's water-plantain	U.S.A. (AL,GA)	T		NA	NA

* * * * *

Dated: September 30, 1989.

Richard N. Smith,

Acting Director, Fish and Wildlife Service.

[FR Doc. 89-24583 Filed 10-17-89; 8:45 am]

BILLING CODE 4310-55-M

50 CFR Part 17

RIN 1018-AB38

Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for Astragalus cremnophylax var. cremnophylax (sentry milk-vetch)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule:

SUMMARY: The Fish and Wildlife Service (Service) proposes to list *Astragalus cremnophylax* var. *cremnophylax* (sentry milk-vetch), as an endangerd species under the authority of the Endangered Species Act of 1973 (Act), as amended. This plant is known from a single site on the South Rim of Grand Canyon National Park. The entire population consists of fewer than 500 plants. Park visitors at the site are trampling plants and degrading the habitat. This proposal, if made final, would implement Federal protection provided by the Act for sentry milk-vetch. The Service seeks data and comments from the public on this proposal.

DATES: Comments from all interested parties must be received by December 18, 1989. Public hearing requests must be received by December 4, 1989.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Field Supervisor, Ecological Services Field Office, U.S. Fish and Wildlife Service, 3616 West Thomas Road, Suite 6, Phoenix, Arizona 85019. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Sue Rutman, at the above address (Telephone 602/261-4720 or FTS 261-4720).

SUPPLEMENTARY INFORMATION:

Background

Astragalus cremnophylax var. *cremnophylax* is a dwarf milk-vetch that is endemic to a single viewpoint on the South Rim of Grand Canyon National Park. The plant occurs in crevices and depressions with shallow soils on Kaibab limestone on a broad platform at the rim of the Grand Canyon gorge. This milk-vetch apparently prefers the unshaded, well drained soils or limestone pavement in an opening in the pinyon-juniper woodland. Dominant species in the surrounding community include *Petrophytum caespitosum* (rock-mat), *Pinus edulis* (pinyon pine), *Juniperus osteosperma* (Utah juniper), *Cercocarpus intricatus* (little-leaf mountain mahogany), *Ephedra viridis* (Mormon tea), *Cowania mexicana* (cliffrose), *Artemesia bigelovii* (sagebrush), *Agropyron smithii* (wheatgrass), and *Poa pratensis* (bluegrass), (Philips et al. 1982). Sentry milk-vetch and rock-mat are the two dominant species in the dwarf plant community that occurs on this limestone pavement.

Astragalus cremnophylax var. *cremnophylax* is usually less than one inch (2.5 cm) high and forms a mat 1–10 inches (2.5–25 cm) in diameter (McDougall 1964). The short, creeping stems have compound leaves less than 0.4 inches (1.0 cm) long composed of 5–9 tiny leaflets. The fruit is obliquely egg-shaped and densely hairy. Whitish or pale purple flowers are 0.2 inches (0.5 cm) long and apear from late April to early May. Seeds are set in late May–June (Phillips et al. 1982). The plants appear to be long-lived and have a thick tap root that penetrates the limestone surface to reach a more constant source of moisture.

A thorough count of all plants in 1988 indicated that the population contained 489 plants. A 1989 inventory of the monitoring plots established in 1988 indicated that the population declined about 10 percent. Data indicate the cause for this decline may be trampling by park visitors. The effects of trampling on both plants and their habitat may have been amplified by the below average rainfall in 1989.

In 1988, the seedling class comprised only 22.2 percent of the population. Given the trampled condition of most mature plants, a likely explanation for the small proportion of seedlings is that they are killed by trampling. Only those seedlings in sites relatively safe from trampling survive. Poor seed dispersal may also affect the number of seedlings.

Astragalus cremnophylax was first discovered in 1903 by Marcus E. Jones who reported it as "apparently common at Grand Canyon * * * on sandy ledges." He mistook the plant for *A. humillimus* Gray, of which only Brandegee's imperfect, now flowerless type from Mesa Verde, Colorado, is extant. Both are alike in diminutive stature and similar pubescence but differ in petioles and pods. Barneby and Ripley recollected the species in 1947 at a location west of El Tovar, Grand Canyon National Park. Barneby described it as a new species in 1948. In 1979, Barneby distinguished a new variety, *A. cremnophylax* var. *myriorraphis* after plants were discovered by Ralph Gierisch and associates in 1978 on Buckskin Mountain in Arizona. The typical form then became *A. cremnophylax* var. *cremnophylax.*

On December 15, 1980, the Service published a revised Notice of Review for Native Plants in the **Federal Register** (45 FR 82480); *A. cremnophylax* was included in that notice as a category 1 species. Category 1 species are those for which the Service presently has sufficient information to support the biological appropriateness of their being listed as endangerd or threatened species. The 1985 revision (50 FR 39526) of the 1980 notice included *Astragalus cremnophylax* var. *cremnophylax* in category 1, and moved *Astragalus cremnophylax* var. *myriorraphis* to category 3C. Category 3C includes taxa that have proven to be more abundant or widespread than was previously believed and/or those that are not subject to any identifiable threat.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act set forth the procedures for adding species to the Federal Lists. A species may be determined to be an endangerd or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Astragalus cremnophylax* var. *cremnophylax* Barneby (sentry milk-vetch) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* The population of sentry milk-vetch occurs at one of the scenic canyon viewpoints along the West Rim Drive at Grand Canyon National Park. During the summer months, a shuttle bus brings visitors to the area where they disembark in the paved parking lot. At other times, visitors may drive their own vehicles to this site. At all times of the year, this area can be reached by walking or hiking. Not all visitors use the paved walkway that transects the sentry milk-vetch's habitat. The area is flat, and many visitors walk from the parking lot directly to the rim, thus trampling any or all of the vegetation. The 1988 survey showed that 65 percent of all plants in the population had experienced some degree of trampling. More than half of

all plants (51.4 percent) experienced severe trampling. Data from 1989 indicates the percent of trampled plants increased, as did the percent of plants showing the effects of severe trampling. The high centers of the mats are the first to show the effects of trampling.

The paved trail and related construction activities probably resulted in the loss of habitat and destruction of plants. Removal of this paved surface and rerouting the trail and visitors around the population may increase and improve the habitat.

Trampling may affect the plants and population stability in a number of ways. Observations indicate that foot traffic has uprooted seedlings and mature plants with decreased vigor. Repeated foot-falls on individual plants may contribute to decreased productivity and decreased flower and fruit production, which may eventually affect recruitment. Degradation of the habitat by foot traffic is evidenced by the informal trails formed by visitors, the smoothness of the limestone caused by the abrasive action of shoes, and the soil loss in the area. If the decline in plant vigor and habitat continues, further declines in population size may occur.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* None known. Because of its rarity, *Astragalus cremnophylaz* var. *cremnophylax* is of interst to botanists and other rare plant enthusiasts. Therefore, take is a minor but present threat.

C. *Disease or predation.* None apparent.

D. *The inadequacy of existing regulatory mechanisms.* This species is protected by National Park Service (NPS) regulations, as are all plant species within the park. The NPS constructed fences that alleviate some of the foot traffic. However, park visitors tend to disregard the fences, particularly those fences that separate them from the canyon rim.

Sentry milk-vetch is protected by the Arizona Native Plant Law.

E. *Other natural or manmade factors affecting its continued existence.* The number of seedlings produced per year seems to be small and their mortality is high. Seedling numbers may be less than predicted for a number of reasons. Seed production may be limited by hard frosts and freezes during the flowering/fruiting period, a situation that occurred in 1988. Poor seed dispersal may also affect the number of seedlings. The tiny orange seeds are inconspicuous and probably not an attractive food item for birds and mammals. Continuing the annual inventory of the monitoring plots may help determine whether or not natural recruitment levels are sufficient to maintain the population.

Any undue publicity directed toward this species could make it susceptible to collection or increased visitation. Many places in the park have signs telling visitors the names and natural history of certain plants; this type of publicity may be detrimental to the survival of this rare endemic.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to propose this rule. Based on this evaluation, the preferred action is to list *Astragalus cremnophylax* var. *cremnophylax* as endangered. With the only known population in decline, the species warrants protection under the Act. Endangered status seems appropriate because of the imminent serious threat of trampling facing the population. Critical habitat is not being designated for the reasons discussed below.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that, to the maximum extent preduct and determinable, the Secretary propose critical habitat at the time the species is proposed to be endangered or threatened. The Service finds that designation of critical habitat is not presently prudent for this species. No direct attention should be drawn toward the species or its location. Any type of publicity on this species could make it susceptible to increased visitation or collection, which would be detrimental to the survival of this rare endemic (O'Brien 1984). As discussed under Factors A and B in the Summary of Factors Affecting the Species, *Astragalus cremnophylax* var. *cremnophylax* is threatened by taking, an activity difficult to enforce against and only regulated by the Act with respect to plants in cases of (1) removal and reduction to possession of listed plants from lands under Federal jurisdiction, or their malicious damage or destruction on such lands; and (2) removal, cutting, digging up, or damaging or destroying in knowing violation of any State law or regulation, including State criminal trespass law. Such provisions are difficult to enforce, and publication of the critical habitat description and map would make *A. cremnophylax* var. *cremnophylax* more vulnerable and increase enforcement problems. The NPS has been notified of the location and importance of protecting this species' habitat, and has already initiated recovery actions. Protection of this species' habitat will be addressed through the recovery process and through the Section 7 jeopardy standard. Therefore, it would not now be prudent to determine critical habitat for *A. cremnophylax* var. *cremnophylax*.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. The protection required of Federal agencies and the prohibitions against certain activities involving listed plants are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) requires Federal agencies to confer informally with the Service on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. If a species is listed subsequently, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service.

The NPS has jurisdiction over the only known habitat for this species. Federal activities that could impact *Astragalus cremnophylax* var. *cremnophylax* include, but are not limited to, keeping the viewpoint parking lot open to vehicular traffic, which allows large numbers of visitors to trample the population, and possible future trail improvement or construction at the viewpoint.

The Act and its implementing regulations found at 50 CFR 17.61, 17.62, and 17.63 set forth a series of general trade prohibitions and exceptions that

apply to all endangered plants. All trade prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.61, apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, sell or offer for sale this species in interstate or foreign commerce, or to remove and reduce to possession the species from areas under Federal jurisdiction. In addition, for listed plants, the 1988 amendments (Pub. L. 100-478) to the Act prohibit the malicious damage or destruction on Federal lands and the removal, cutting, digging up, or damaging or destroying of listed plants in knowing violation of any State law or regulation, including State criminal trespass law. Certain exceptions apply to agents of the Service and State conservation agencies. The Act and 50 CFR 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered species under certain circumstances.

It is anticipated that few trade permits would ever be sought or issued because the species is not common in cultivation or in the wild. Requests for copies of the regulations on plants and inquiries regarding them may be addressed to the Office of Management Authority, U.S. Fish and Wildlife Service, P.O. Box 3507, Arlington, VA 22201 (703/358-2104).

Public Comments Solicited

The Service intends that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule are hereby solicited. Comments particularly are sought concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to this species;

(2) The location of any additional populations of this species and the reasons why any habitat should or should not be determined to be critical habitat as provided by section 4 of the Act;

(3) Additional information concerning the range, distribution, and population size of this species; and

(4) Current or planned activities in the subject area and their possible impacts on this species.

Final promulgation of the regulation on this species will take into consideration the comments and any additional information received by the Service, and such communications may lead to a final regulation that differs from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be received within 45 days of the date of publication of the proposal. Such requests must be made in writing and addressed to the Field Supervisor (See **ADDRESSES**).

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to Section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the Federal Register on October 24, 1983 (48 FR 49244).

Reference Cited

McDougall, W.B. 1964. Grand Canyon wildflowers. The Museum of Northern Arizona, Flagstaff.

O'Brien, S. 1984. Status of *Astragalus cremnophylax* and recommendations to protect it. Unpubl. report to Grand Canyon National Park. 6 pp.

Phillips, A.M., III, B.G. Phillips, N. Brian, L.T. Green III, and J. Mazzoni. 1982. Status report, *Astragalus cremnophylax* Barneby. U.S. Fish and Wildlife Service, Albuquerque, NM. 16 pp.

Author(s)

The primary authors of this proposed rule are Sonja Jahrsdoerfer, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103 (505/766-3972 or FTS 474-3972) and Sue Rutman (See **ADDRESSES**).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Fish, Marine mammals, Plants (agriculture).

Proposed Regulation Promulgation

PART 17—[AMENDED]

Accordingly, it is hereby proposed to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below.

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361-1407; 16 U.S.C. 1531-1543; 16 U.S.C. 4201-4245; Pub. L. 99-625, 100 Stat. 3500; unless otherwise noted.

2. It is proposed to amend § 17.12(h) by adding the following, in alphabetical order under the family Fabaceae, to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
Fabaceae—Pea family:						
*	*	*	*	*	*	
Astragalus cremnophylax var. *cremnophylax.*	Sentry milk-vetch	U.S.A. (AZ)	E		NA	NA

* * * * *

Dated: September 25, 1989.

Richard N. Smith,

Acting Director, Fish and Wildlife Service.

[FR Doc. 89-24582 Filed 10-17-89; 8:45 am]

BILLING CODE 4310-55-M

Notices

Federal Register
Vol. 54, No. 200
Wednesday, October 18, 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 COMMERCE

Foreign-Trade Zones Board

[Order No. 442]

Approving Application of the Greater New Haven Chamber of Commerce, Inc., for Foreign-Trade Zone in North Haven, CT

Proceedings of the Foreign-Trade Zones Board, Washington, DC.

Resolution and Order

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board has adopted the following Resolution and Order:

The Board, having considered the matter, hereby orders:

After consideration of the application of the Greater New Haven Chamber of Commerce, Inc., filed with the Foreign-Trade Zones Board (the Board) on March 7, 1988, requesting a grant of authority for establishing, operating, and maintaining a general-purpose foreign-trade zone in North Haven, Connecticut, within the New Haven Customs port of entry, the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that the proposal is in the public interest, approves the application.

As the proposal involves open space on which buildings may be constructed by parties other than the grantee, this approval includes authority to the grantee to permit the erection of such buildings, pursuant to Section 400.815 of the Board's regulations, as are necessary to carry out the zone proposal, providing that prior to its granting such permission it shall have the concurrences of the local District Director of Customs, the U.S. Army District Engineer, when appropriate, and the Board's Executive Secretary. Further, the grantee shall notify the Board for approval prior to the commencement of any manufacturing operation within the zone. The Secretary of Commerce, as Chairman and Executive Officer of the Board, is hereby authorized to issue a grant of authority and appropriate Board Order.

Grant of Authority to Establish, Operate, and Maintain a Foreign-Trade Zone in North Haven, CT

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized and empowered to grant to corporations the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to ports of entry under the jurisdiction of the United States;

Whereas, the Greater New Haven Chamber of Commerce, Inc., (the Grantee) has made application (filed March 7, 1988, FTZ Docket 16–88, 53 FR 9132) in due and proper form to the Board, requesting the establishment, operation, and maintenance of a foreign-trade zone in North Haven, Connecticut, within the New Haven Customs port of entry;

Whereas, notice of said application has been given and published, and full opportunity has been afforded all interested parties to be heard; and

Whereas, the Board has found that the requirements of the Act and the Board's regulations (15 CFR part 400) are satisfied;

Now, therefore, the Board hereby grants to the Grantee the privilege of establishing, operating, and maintaining a foreign-trade zone, designated on the records of the Board as Zone No. 162, at the location mentioned above and more particularly described on the maps and drawings accompanying the application in Exhibits IX and X, subject to the provisions, conditions, and restrictions of the Act and the regulations issued thereunder, to the same extent as though the same were fully set forth herein, and also the following express conditions and limitations:

Operation of the foreign-trade zone shall be commenced by the Grantee within a reasonable time from the date of issuance of the grant, and prior thereto, any necessary permits shall be obtained from Federal, State, and municipal authorities.

The Grantee shall allow officers and employees of the United States free and unrestricted access to and throughout the foreign-trade zone site in the performance of their official duties.

The grant does not include authority for manufacturing operations, and the Grantee shall notify the Board for approval prior to the commencement of any manufacturing operations within the zone.

The grant shall not be construed to relieve the Grantee from liability for injury or damage to the person or property of others occasioned by the construction, operation, or maintenance of said zone, and in no event shall the United States be liable therefor.

The grant is further subject to settlement locally by the District Director of Customs and Army District Engineer with the Grantee regarding compliance with their respective requirements for the protection of the revenue of the United States and the installation of suitable facilities.

In witness whereof, the Foreign-Trade Zones Board has caused its name to be signed and its seal to be affixed hereto by its Chairman and Executive Officer at Washington, DC, this 2d day of October, 1989, pursuant to the Order of the Board.

Foreign-Trade Zones Board.

Robert A. Mosbacher,

Secretary of Commerce, Chairman and Executive Officer.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 89–24600 Filed 10–17–89; 8:45 am]

BILLING CODE 3510–DS–M

International Trade Administration

University of Arizona, et al.; Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897; 15 CFR 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 2841, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign

instruments described below, for such purposes as each is intended to be used, is being manufactured in the United States.

Docket Number: 89–090. *Applicant:* University of Arizona, Tucson, AZ 85724. *Instrument:* Intravital Light Microscope with Accessory Components. *Manufacturer:* E. Leitz, West Germany. *Intended Use:* See notice at 54 FR 13725, April 5, 1989. *Reasons:* The foreign instrument is uniquely constructed to provide direct intravital microscopic examination in vivo. *Advice Submitted By:* National Institutes of Health, August 3, 1989.

Docket Number: 89–091. *Applicant:* University of Alabama, Birmingham, AL 35294. *Instrument:* 3-Dimensional Micromanipulators with Accessories, Models MX–2R and MX–2L. *Manufacturer:* Narishige Scientific Instrument Laboratory, Japan. *Intended Use:* See notice at 54 FR 13725, April 5, 1989. *Reasons:* The foreign instrument provides a stability of 0.1 μm with a fine adjustment range of 4.0 mm in the x and y axes and 30 mm in the z axis. *Advice Submitted By:* National Institutes of Health, August 3, 1989.

Docket Number: 89–092. *Applicant:* Washington University, School of Medicine, St. Louis, MO 63110. *Instrument:* Microelectrode Manipulator and Stepper Drive. *Manufacturer:* AB GE–KA Finmekaniska, Sweden. *Intended Use:* See notice at 54 FR 13725, April 5, 1989. *Reasons:* The foreign instrument provides a rigid, adjustable, arch-type frame and a stepping motor with speed and vibrational characteristics which permit precise positioning of microelectrodes in tissue. *Advice Submitted By:* National Institutes of Health, August 3, 1989.

Docket Number: 89–097. *Applicant:* University of Illinois at Urbana-Champaign, Urbana, IL 61801. *Instrument:* Stopped Flow Instrument, Model SFA–11. *Manufacturer:* Hi-Tech Scientific Ltd., United Kingdom. *Intended Use:* See notice at 54 FR 13726, April 5, 1989. *Reasons:* The foreign article directly delivers mixed reagent solutions to the observation cell of an existing spectrophotometer. *Advice Submitted By:* National Institutes of Health, August 3, 1989.

Docket Number: 89–103. *Applicant:* State University of New York, Health Science Center at Syracuse, Syracuse, NY 13210. *Instrument:* Freeze Fracture Apparatus, Model CFE–50. *Manufacturer:* Cressington Scientific Instruments, United Kingdom. *Intended Use:* See notice at 54 FR 13727, April 5, 1989. *Reasons:* The foreign article provides programmable, high-speed electron beam evaporation shadowing. *Advice Submitted By:* National Institutes of Health, August 3, 1989.

Docket Number: 89–106. *Applicant:* University of California, La Jolla, CA 92093.

Docket Number: 89–110. *Applicant:* Haverford College, Haverford, PA 19041–1328. *Instrument:* Stopped-Flow Spectrophotometer, Model SF–51. *Manufacturer:* Hi-Tech Scientific Ltd., United Kingdom. *Intended Use:* See notices at 54 FR 15536, April 18, 1989. *Reasons:* The foreign instrument provides an inert flow path, 650 μs dead time, and uses the same observation cell for both fluorescence and absorbance measurements to permit rapid changeover. *Advice Submitted By:* National Institutes of Health, August 3, 1989.

Docket Number: 89–108. *Applicant:* University of Montana, Polson, MT 59860. *Instrument:* Precision Dissolved Oxygen Meter and Accessories, Model 781b. *Manufacturer:* Strathkelvin Instruments, United Kingdom. *Intended Use:* See notice at 54 FR 15536, April 18, 1989. *Reasons:* The foreign article provides gas-tight sample chambers, low oxygen consumption by the microelectrodes and parts-per-million sensitivity. *Advice Submitted By:* National Institutes of Health, August 3, 1989.

Docket Number: 89–115. *Applicant:* Washington University School of Medicine, St. Louis, MO 63110. *Instrument:* Stopped Flow Spectrofluorimeter, Model SF–17MV/20MB. *Manufacturer:* Applied Photophysics, United Kingdom. *Intended Use:* See notice at 54 FR 18689, May 2, 1989. *Reasons:* The foreign instrument provides: (1) sub-millisecond dead time, (2) five optical windows and (3) 25 microliter sample volume per determination. *Advice Submitted By:* National Institutes of Health, August 29, 1989.

Docket Number: 89–119. *Applicant:* Baruch College, CUNY, New York, NY 10010. *Instrument:* Rapid Kinetics Accessory, Model SFA–11. *Manufacturer:* Hi-Tech Scientific Ltd., United Kingdom. *Intended Use:* See notice at 54 18689, May 2, 1989. *Reasons:* The foreign article directly delivers mixed reagent solutions to the observation cell of an existing spectrophotometer. *Advice Submitted By:* National Institutes of Health, August 29, 1989.

The National Institutes of Health advise that (1) the capabilities of each of the foreign instruments described above are pertinent to each applicant's intended purpose and (2) they know of no domestic instrument or apparatus of equivalent scientific value for the intended use of each instrument.

We know of no other instrument or apparatus being manufactured in the United States which is of equivalent scientific value to any of the foreign instruments.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 89–24599 Filed 10–17–89; 8:45 am]

BILLING CODE 3510–DS–M

National Oceanic and Atmospheric Administration

Gulf of Mexico Fishery Management Council; Public Hearing

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Gulf of Mexico Fishery Management Council will hold a public meeting of its Mackerel Advisory Panel on November 2, 1989, from 10 a.m. to 4 p.m. The meeting will be held at the Howard Johnson—New Orleans Airport Hotel, 6401 Veterans Boulevard, Metairie, LA. The panel will review draft Amendment #5 to the Coastal Migratory Pelagic (Mackerel) Fishery Management Plan, which addresses the following measures:

(1) Extend the management area through the Mid-Atlantic Fishery Management Council's area of jurisdiction (Action 1);

(2) Identify new problems in the fishery and revise objectives (Actions 2 and 3);

(3) Revise the fishing year for Gulf and Spanish mackerel (Action 4);

(4) Revise the definition of "overfishing" (Action 5);

(5) Provide that the South Atlantic Fishery Management Council will be responsible for preseason adjustments to total allowable catches and bag limits for the Atlantic migratory groups of mackerel, while the Gulf of Mexico Fishery Management Council will be responsible for Gulf migratory groups (Action 6);

(6) Continue to manage the two recognized Gulf migratory groups of king mackerel as one unit until management measures appropriate to the eastern and western groups can be determined (Action 7);

(7) Reallocate Gulf Spanish mackerel between recreational and commercial fishermen (Action 8);

(8) Redefine recreational bag limits as daily limits (Action 9);

(9) Redefine qualifications to obtain a commercial permit (Action 10);

(10) Prohibit the sale of king mackerel taken under a bag limit (Action 11);

(11) Provide trip limits for commercial Spanish mackerel vessels (Action 12);

(12) Specify that Gulf king mackerel may be taken only by hook-and-line and runaround gillnets (Action 13);

(13) Impose a bag limit of two cobia per person, per day (Action 14);

(14) Establish a minimum size of 12" fork length or 14" total length for king mackerel (Action 15);

(15) Provide management for dolphin (Action 16); and

(16) Include a definition of "conflict" to provide guidance to the Secretary of Commerce (Action 17).

For more information contact Wayne F. Swingle, Executive Director, Gulf of Mexico Fishery Management Council, 5401 West Kennedy Boulevard, Suite 881, Tampa, FL; telephone: (813) 228–2815

Dated: October 12, 1989.

Richard H. Schaefer,

Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 89–24589 Filed 10–17–89; 8:45 am]

BILLING CODE 3510-22-M

Gulf of Mexico and South Atlantic Fishery Management Councils; Public Hearings Correction

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of public hearings and request for comments; correction.

SUMMARY: This document corrects the time for a public hearing on draft Amendment 5 to the Coastal Migratory Pelagic (Mackerel) Fishery Management Plan that was published October 6, 1989, (54 FR 41324). All other information, as published, remains the same.

In FR Doc. 89–23652 in the issue of October 6, 1989, on page 41324, third column, under the **"SUPPLEMENTARY INFORMATION"** heading, the second paragraph should read "All hearings will begin at 7:00 p.m., and will adjourn at 10:00 pm., local time for each area with the exception of the Ft. Lauderdale hearing on Monday, October 23, 1989, which will begin at 1:00 p.m. and adjourn at 4:00 p.m."

Dated: October 12, 1989.

Richard H. Schaefer,

Director of Office of Fisheries Conservation and Management National Marine Fisheries Service.

[FR Doc. 89–24587 Filed 10–17–89; 8:45 am]

BILLING CODE 3510-22-M

Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Pacific Fishery Management Council will hold a public meeting of an ad hoc committee to develop proposals for long-term management of the sablefish fishery. The meeting will be held on October 30–31, 1989, at the Metro Center Building, 2000 S.W. First Avenue, Room 145, Portland, OR. The committee will begin the meeting at 1 p.m., on October 30 and adjourn on October 31 at 4 p.m.

In July 1989 the Pacific Fishery Management Council established its sablefish management objectives in priority order. Conservation is the highest priority; economics and utilization are second and third, respectively. The committee has been directed to develop management alternatives in line with these priorities, and will report its findings during the Pacific Council's November 15–17, 1989, meeting in Portland, OR. For more information contact Lawrence D. Six, Executive Director, Pacific Fishery Management Council, 2000 SW. First Avenue, Portland, OR 97201; telephone: (503) 326–6352.

Dated: October 12, 1989.

Richard H. Schaefer,

Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 89–24588 Filed 10–17–89; 8:45 am]

BILLING CODE 3510-22-M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

Intent to prepare a Draft Environmental Impact Statement (DEIS) for Proposed Improvements to Dike 14 Confined Disposal Facility (CDF) at Cleveland Harbor, Cuyahoga County, OH

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of intent

SUMMARY: The proposed action involves raising the existing Confined Disposal Facility (CDF) at Site 14 by seven feet in height to provide an additional 880,000 cubic yards of capacity, or approximately three additional years of capacity for consolidated dredged material from the Cuyahoga River. The action is necessary because of the need for an interim fill capacity until a new dike (referred to as the Burke East CDF) with a 15-year fill capacity, to be located off the nearby Burke Lakefront Airport, can be constructed. The current schedule calls for completion of the new Burke East CDF in the mid-1990s.

FOR FURTHER INFORMATION CONTACT: Questions about the proposed action and Draft Environmental Impact Statement can be directed to: Mr. Timothy Daly, (716) 879–4171, U.S. Army Corps of Engineers, Buffalo District, Environmental Analysis Branch, 1776 Niagara Street, Buffalo, NY 14207–3199.

SUPPLEMENTARY INFORMATION:

Previous Reports

Supplemental Information Report for Cleveland Harbor, Ohio, Diked Disposal Site 14, January 1983; and, Final Environmental Impact Statement, Diked Disposal Facility Site No. 14, Lake Erie, Cleveland Harbor, Cleveland, Ohio, Office of the Chief of Engineers, Department of the Army, Washington, DC 20314, December 1975, filed with USEPA 20 February 1976.

Authority

The current Federal CDF at Site 14 was constructed under the authority of section 123 of Public Law 91–611.

Proposed Action

The proposed action involves raising the existing CDF Site 14 as an interim measure to provide holding capacity for dredged material until a new CDF can be constructed at the nearby Burke Lakefront Airport vicinity. The dike would be raised by seven feet, and provide a service life (additional holding capacity) of about three years. Raising the Dike by seven feet would put its height at +27 feet LWD; therefore, the target height of the dike would be approximately two feet higher than the existing steel sheet pile wall.

Alternatives

The U.S. Army Corps of Engineers, Buffalo District has investigated concerns and potential alternative measures to address the need for interim dredged disposal capacity at Cleveland Harbor. Many alternative plans were considered in the effort to find the least costly and environmentally sound dredge disposal method. In addition to the structural plans being considered for a new CDF in conjunction with raising Dike 14, other alternatives, including open lake disposal, upland use of dredged material, upland disposal, and a no action plan were considered.

Several concerns need to be

addressed in finalizing the proposed Dike 14 plan. A Fish and Wildlife Coordination Act Report is currently being prepared, as well as a section 404(b)(1) Water Quality Evaluation, both of which will be included with the Draft Environmental Impact Statement. In addition, continued coordination with Federal, State, and local agencies will examine the need for any additional studies to assess project effects on endangered or threatened species, cultural resources, or other aspects of the human environment.

Scoping Process

Scoping coordination is being conducted for each phase of this evaluation. Activities are coordinated with government agencies, interest groups, and the general public. The general intent is to gain assistance in: Identifying and scoping problems, needs, and concerns; developing feasible alternative solutions; and in assessing, evaluating, and identifying preferred and selected plans. The public involvement process incorporates written correspondence, telephone communication, public meetings/workshops, and draft and final report review procedures. Additional scoping input from potentially affected Federal, State, and local agencies or interests is invited by this notice.

Significant issues to be analyzed in depth include those "concerns needed to be addressed" under Alternatives.

The evaluation shall be conducted so as to comply with the various Federal and State Environmental Statutes and Executive Orders and associated review procedures. When the Engineering Report and accompanying DEIS are completed for review, the combined document will be filed with the U.S. Environmental Protection Agency to be coordinated and reviewed under the National Environmental Policy Act procedures.

Availability

The combined document consisting of a project Engineering Report and Draft Environmental Impact Statement will be made available to the public about April 1990. A local public meeting may be scheduled after coordination of the draft reports.

Dated: October 2, 1989.

Hugh F. Boyd III,

Colonel, EN, Commanding.

[FR Doc. 89-24511 Filed 10-17-89; 8:45 am]

BILLING CODE 3710-6P-M

DELAWARE RIVER BASIN COMMISSION

Commission Meeting and Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Wednesday, October 25, 1989 beginning at 1:30 p.m. in the Corinthian Room of the Concord Resort Hotel in Kiamesha Lake, New York. The hearing will be part of the Commission's regular business meeting which is open to the public.

An informal pre-meeting conference among the Commissioners and staff will be open for public observation at about 11:00 a.m. in the Towers No. 8 Meeting Room and will include status reports on the upper Delaware ice jam project and amendment of Compact Section 15.1(b) to fund the Francis E. Walter Reservoir project as well as recommendations concerning metering, deletion of obsolete projects from the Comprehensive Plan and use attainability in the Delaware Estuary.

The subjects of the hearing will be as follows:

Current Expense and Capital Budgets. A proposed current expense budget for the fiscal year beginning July 1, 1990, in the aggregate amount of $2,697,900 and a capital budget for the same period in the amount of $1,497,500 in revenue and $1,171,200 in expenditures. Copies of the current expense and capital budget are available from the Commission on request.

A Proposal to Adopt the 1989 Water Resources Program. A proposal that the 1983 Water Resources Program approved on November 30, 1983, as extended and adopted respectively by DRBC Resolution Nos. 84-27, 85-42, 86-27, 87-29, and 88-25, as the 1984, 1985, 1986, 1987 and 1988 Water Resources Program, be extended and adopted as the 1989 Water Resources Program, in accordance with the requirements of section 13.2 of the Delaware River Basin Compact.

Applications for the Approval of the Following Projects Pursuant to Article 10.3, Article 11 and/or section 3.8 of the Compact:

1. *Holdover Project: Pennsylvania Department of Environmental Resources (PADER) D-88-48 CP.* An application for inclusion of the Lower Brandywine Scenic River designation under Pennsylvania's Scenic Rivers Act in DRBC's Comprehensive Plan. To be included are the main stem Brandywine and segments of the East Branch Brandywine, West Branch Brandywine, Pocopson Creek, Valley Creek, Broad Run, Buck Run, Doe Run and two unnamed tributaries in Newlin Township. Pennsylvania officially designated the Lower Brandywine as a Scenic River on June 16, 1989 by Act No. 1989-7. This hearing continues that of September 27, 1989.

2. *Merchantville-Pennsauken Water Commission D-84-52 CP RENEWAL.* An application for the renewal of a ground water withdrawal project to supply up to 30 million gallons (mg)/30 days of water to the applicant's distribution system from National Highway Well No. 2. Commission approval on January 30, 1985 was limited to five years and will expire unless renewed. The applicant requests that the total withdrawal from all wells remain limited to 356.5 mg/30 days. The project is located in Merchantville Borough and Pennsauken Township, Camden County, New Jersey.

3. *Atlantic Pipeline Corporation D-89-30.* An application for approval of a ground water withdrawal project to withdraw up to 4.32 mg/30 days of water from Well Nos. MW38, MW39, MW64, and MW65 for the applicant's ground water decontamination system. The project is located in West Whiteland Township, Chester County in the Southeastern Pennsylvania Ground Water Protected Area.

4. *Tamiment Water Company—Wesland Development, Inc. D-89-33 CP.* An application for approval of a ground water withdrawal project to supply up to 6.4 mg/30 days of water to the applicant's distribution system from new Well No. 3, and to increase the existing withdrawal limit of 5.5 mg/30 days from all wells to 6.4 mg/30 days. The project is located in Lehman Township, Pike County, Pennsylvania.

5. *Utility Group Services Corp. D-89-40 CP.* An application for approval of a ground water withdrawal project to supply up to 23.1 mg/30 days of water to the applicant's distribution system from existing Well Nos. UG-1 through UG-18. The project is located in West Bradford Township, Chester County and is in the Southeastern Pennsylvania Ground Water Protected Area.

6. *Textile Chemical Company D-89-59.* An application for approval of a ground water withdrawal project to withdraw up to 4.6 mg/30 days of water for the applicant's ground water decontamination system from new Well Nos. 4, 8 and 12, and to limit withdrawal from all wells to 4.6 mg/30 days. The project is located in Ontelaunee Township, Berks County, Pennsylvania.

7. *Atlantic Pipeline Corporation D-89-68.* An application to expand a 0.072 million gallon per day (mgd) wastewater

treatment facility to treat an average 0.144 mgd flow of ground water which has been contaminated by a leakage of the applicant's petroleum products pipeline in the project area. The ground water will be decontaminated and discharged via an outfall pipe to the East Branch Chester Creek. The project is located between Ship and Boot Roads, West Whiteland Township, Chester County, Pennsylvania.

8. *Penn Utility Company D–89–71.* An application to expand an existing 0.10 mgd sewage treatment plant (STP) to provide 0.15 mgd tertiary treatment for service of the growing residential community of Penn Estates. The STP will continue to discharge to an unnamed tributary of Brodhead Creek. The project STP is located off Cherry Lane and west of Routes 191 and 447 in Stroud Township, Monroe County, Pennsylvania.

Documents relating to these items may be examined at the Commission's offices. Preliminary dockets are available in single copies upon request. Please contact George C. Elias concerning docket-related questions. Persons wishing to testify at this hearing are requested to register with the Secretary prior to the hearing.

Dated: October 10, 1989.

Susan M. Weisman,

Secretary.

[FR Doc. 89–24564 Filed 10–17–89; 8:45 am]

BILLING CODE 6360–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ES89–39–000, et al.]

UtiliCorp United Inc., et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

Take notice that the following filings have been made with the Commission:

1. UtiliCorp United Inc.

[Docket No. ES89–39–000]

October 6, 1989.

Take notice that on September 27, 1989, UtiliCorp United Inc. ("Applicant") filed an application with the Federal Energy Regulatory Commission ("Commission"), pursuant to section 204 of the Federal Power Act, seeking authority to issue not more than 500,000 shares of common stock, par value $1.00 per share, pursuant to the UtiliCorp United Inc. Savings Plan and for exemption from the competitive bidding and negotiated placement requirements.

Comment date: October 26, 1989, in accordance with Standard Paragraph E at the end of this notice.

2. Consumers Power Co.

[Docket No. ES90–1–000]

October 6, 1989.

Take notice that on October 3, 1989, Consumers Power Company filed an application pursuant to section 204 of the Federal Power Act seeking authority to issue and sell, or guarantee up to $800,000,000 in secured and/or unsecured short-term debt including but not limited to, notes, drafts, debentures and commercial paper. The issuance, sale or guarantee of the secured and/or unsecured short-term debt would be from time to time, during the period January 2, 1990 through December 31, 1990, with maturities of 364 days or less.

Comment date: November 2, 1989, in accordance with Standard Paragraph E at the end of this notice.

3. Pennsylvania-New Jersey-Maryland Interconnection (PJM) Agreement

[Docket No. ER90–11–000]

October 10, 1989.

Take notice that on October 3, 1989, the Office of the Pennsylvania-New Jersey-Maryland (PJM) Interconnection filed, on behalf of the parties to the PJM Agreement, Revision No. 2 to Schedule 4.02 of that Agreement, on file as PJM Rate schedule FERC No. 1. Revision No. 2 supersedes Revision No. 1 issued September 8, 1983 and Supplement No. 7 to PJM Rate Schedule FERC No. 1.

The purpose of this filing is to revise each party's allocated share of PJM import capability from west of PJM Agreement Schedule 4.02. PJM requests an effective date of December 4, 1989. No changes in facilities are proposed in this filing.

PJM states that the revised shares are the result of a negotiated settlement among the parities following a recent capacity purchase and associated transmission reinforcements by a PJM member company.

Copies of this filing have been set to the Regulatory Commissions of Pennsylvania, New Jersey, Maryland, Delaware, Virginia, and the District of Columbia for their information.

Comment date: October 24, 1989, in accordance with Standard Paragraph E at the end of this notice.

4. Philadelphia Electric Co.

[Docket No. ER90–10–000]

October 10, 1989.

Take notice that on October 3, 1989, Philadelphia Electric Company (PECo) filed on behalf of the parties to the Extra High Voltage Transmission EHV Agreement, Revision No. 1 to Schedule 2 and Revision No. 1 to Schedule 3 of the Transmission Enhancement Facilities (TEF) Agreement which is filed as a supplement to the EHV Agreement. The parties to both Agreements are:

Public Service Electric and Gas Company
Philadelphia Electric Company
Atlantic City Electric Company
Delmarva Power & Light Company
Pennsylvania Power & Light Company
Baltimore Gas and Electric Company
Potomac Electric Power Company
Jersey Central Power & Light Company
Metropolitan Electric Company
Pennsylvania Electric Company
UGI Corporation

The purpose of revising Schedules 2 and 3 of the TEF Agreement is to maintain investment responsibilities in the TEF project consistent with the shares of capability to import from west of PJM as set forth in revised PJM Agreement Schedule 4.02. An effective date of December 4, 1989 has been requested for this revision concurrent with the revision to PJM Agreement Schedule 4.02.

PECo states that this filing has been sent to the Regulatory Commissions of Pennsylvania, New Jersey, Maryland, Delaware, Virginia, and the District of Columbia for their information.

Comment date: October 24, 1989, in accordance with Standard Paragraph E at the end of this notice.

5. United Illuminating Co.

[Docket No. ER90–3–000]

October 10, 1989.

Take notice that on October 3, 1989, the United Illuminating Company (UI) tendered for filing a Unit Sales Agreement between UI and Vermont Marble Company (Vermont Marble). The agreement provides for the sale to Vermont Marble of capacity and associated energy from UI's New Haven Harbor Station. The parties request an effective date of November 1, 1989.

Copies of this filing were mailed or delivered to Vermont Marble. UI further states that the filing is in accordance with Section 35 of the Commission's Regulations.

Comment date: October 24, 1989, in accordance with Standard Paragraph E at the end of this notice.

6. Florida Power Corp.

[Docket No. ER90–4–000]

October 10, 1989.

Take notice that on October 3, 1989, Florida Power Corporation, on behalf of Florida Power Corporation (Florida Power) and Entergy Services, Inc. (Entergy), tendered for filing a Contract For Purchases of Economic Energy

Between Florida Power Corporation and Entergy Services, Inc., proposed to be effective September 1, 1989. Entergy acts as agent for Arkansas Power & Light Company (AP&L), Louisiana Power & Light Company (LP&L), Mississippi Power & Light Company (MP&L) and New Orleans Public Service, Inc. (NOPSI).

Florida Power also tendered the filing, on behalf of Florida Power only, a Contract For Purchases Of Economy Energy Between Florida Power Corporation and Cajun Electric Power Cooperative, Inc., also proposed to be effective September 1, 1989.

According to Florida Power, a copy of this filing has been served on Entergy, Cajun, and the Florida Public Service Commission.

Comment date: October 24, 1989, in accordance with Standard Paragraph E at the end of this notice.

7. Iowa Public Service Co.

[Docket No. ER90–6–000]

October 10, 1989.

Take notice that on October 3, 1989, Iowa Public Service Company tendered for filing an executed Letter Agreement dated August l8, l989, whereby Iowa Public Service Company (IPS) will sell to Dairyland Power Cooperative (Dairyland) energy for a period commencing September 16, 1989 and ending October 13, 1989. IPS requests that the negotiated Agreement be made effective as of September 16, 1989.

Comment date: October 24, 1989, in accordance with Standard Paragraph E end of this notice.

8. Long Island Lighting Co.

[Docket No. ER90–8–000]

October 10, 1989.

Take notice that Long Island Lighting Company on October 3, 1989, tendered for filing proposed changes in its FERC Rate Schedule 32, pursuant to which LILCO transmits power and energy from the New York Power Authority to the three municipal electric utilities on Long Island: the Village of Greenport, Rockville Centre and Freeport. The proposed changes would decrease revenues from such service by $225,342.000 based on the 12-month period ending May 31, 1990.

LILCO proposes to decrease the rates in order to reflect the Company's cost of service.

Copies of this filing were served upon the New York Authority the Municipal Electric Utilities Association of New York State, the Incorporated Villages of Greenport, Freeport and Rockville Centre, and the New York State Public Service Commission.

Comment date: October 24, 1989, in accordance with Standard Paragraph E end of this notice.

9. United Illuminating Co.

[Docket No. ER90–5–000]

October 10, 1989.

Take notice that on October 3, 1989, the United Illuminating Company (UI) tendered for filing a Unit sales Agreement between UI and the Town of Hudson Light and Power Department (Hudson). The agreement provides for the sale to Hudson of capacity and associated energy from UI's New Haven Harbor Station. The parties request an effective date of November 1, 1989.

Copies of this filing were mailed or delivered to Hudson. UI further states that the filing is in accordance with Section 35 of the Commission's Regulations.

Comment date: October 24, 1989, in accordance with Standard Paragraph E at the end of this notice.

10. Long Island Lighting Co.

[Docket No. ER90–9–000]

October 10, 1989.

Take notice that Long Island Lighting Company on October 3, 1989, tendered for filing proposed changes in its FERC Rate Schedule 34, pursuant to which LILCO transmits power and energy from the New York Power Authority, Brookhaven National Laboratory in Upton, New York and Grumman Corporation in Bethpage, New York. The proposed changes would decrease revenues from such service by $161,544.000 based on the 12-month period ending May 31, 1990.

LILCO proposes to decrease the rates in order to reflect the Company's cost of service.

Copies of this filing were served upon the New York Power Authority, Brookhaven National Laboratory, Grumman Corporation and the New York State Public Service Commission.

Comment date: October 24, 1989, in accordance with Standard Paragraph E at the end of this notice.

11. Duquesne Light Co.

[Docket No. ER90–1–000]

October 10, 1989.

Take notice that Duquesne Light Company (DLC) on October 3, 1989, tendered for filing proposed changes in its FERC Municipal Electric Resale Service Tariff for Pitcairn, Pennsylvania. DLC requests that the proposed rate schedule change become effective on December 1, 1989. DLC indicates that the proposed change would increase revenues from jurisdictional sales by $119,908 based on the twelve-month period ending May 31, 1989. On December 1, 1990, revenues would be increased by an additional $80,614. DLC indicates that it has experienced increased costs for service to the Borough. The Borough has filed a statement in support of the proposed increase.

DLC states that copies of the filing were mailed to the Pennsylvania Public Utility Commission and to the Secretary of the Borough of Pitcairn.

Comment date: October 24, 1989, in accordance with Standard Paragraph E at the end of this notice.

12. Georgia Power Co.

[Docket No. ER90–2–000]

October 10, 1989.

Take notice that on October 3, 1989, Georgia Power Company (Georgia Power) tendered for filing an Interim Agreement for Gulf Power Company Scherer Unit 3 Transmission Facilities Service Payment to Georgia Power Company (the Agreement) dated as of August 31, 1989, between Georgia Power and Gulf Power Company (Gulf Power).

Georgia Power states that the Agreement has been executed to facilitate transmission of power from Gulf Power's 25% interest in Plant Scherer Unit No. 3 (located on Georgia Power's system) to Gulf Power's service territory or to off-system customers. Georgia Power seeks waiver of the Commission's notice requirements and seeks an effective date of January 1, 1989. The Agreement will terminate on December 31, 1992.

Comment date: October 24, 1989, in accordance with Standard Paragraph E at the end of this notice.

13. Wisconsin Power & Light Co.

[Docket No. ER90–7–000]

October 10, 1989.

Take notice that on October 3, 1989, Wisconsin Power & Light Company (WPL) tendered for filing an amended wholesale power agreement dated September 15, 1989, between the Village of Sauk City and WPL. WPL states that this new wholesale power agreement revises the previous agreement between the two parties which was dated May 26, 1970, and designated Rate Schedule No. 84 by the Commission.

The purpose of this new agreement is to identify an additional delivery point. Terms of service for this customer will be on a similar basis to the terms of service for other W–3 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 Village of Sauk City and the Wisconsin Public Service Commission.

Comment date: October 24, 1989, in accordance with Standard Paragraph E at the end of this notice.

14. Citizens Power & Light Corp.

[Docket No. ER89-675-000]

October 10, 1989.

Take notice that on September 6, 1989, Citizens Power & Light Corporation (Citizens) filed a notice of cancellation concerning Citizens' sale of power to the Utah Association of Municipal Power Systems pursuant to Citizens Rate Schedule FERC No. 1. Citizens requests an effective date of May 27, 1989.

Comment date: October 23, 1989, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph:

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. 89-24525 Filed 10-17-89; 8:45am]

BILLING CODE 6717-01-M

[Project Nos. 3757-005, et al.]

Hydroelectric Applications Filed With the Commission

Take notice that the following hydroelectric applications have been filed with the Commission and are available for public inspection:

1. a. *Type of Filing:* Surrender of License.

b. *Project No.:* 3757-005.

c. *Date Filed:* August 18, 1989.

d. *Applicants:* City of Bountiful, Utah.

e. *Name of Project:* Lost Creek Project.

f. *Location:* On Lose Creek in Morgan City, Morgan County, Utah.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)-825(r)

h. *Applicant Contracts:*

Mr. McNeill Watkins II, Bishop, Cook, Purcell & Reynolds, 1400 L Street, NW., Washington, DC 20005, (202) 371-5785.

Mr. Kevin Garlick, Bountiful City Light and Power, 198 South 200 West, Bountiful, UT 84010, (801) 295-9496.

i. *FERC Contact:* Thomas Dean, (202) 376-9562.

j. *Comment Date:* November 2, 1989.

k. *Description of Application:* The proposed project would have utilized the Bureau of Reclamation's Lost Creek Dam and Reservoir and would have consisted of: (1) A 36-inch-diameter steel penstock near the right dam abutment; (2) a powerhouse containing one generating unit with a rated capacity of 1,000 kilowatt; (3) a tailrace near the existing outlet works stilling basin; (4) a 1,200-foot-long, 46-kV transmission line; and (5) appurtenant facilities. The applicant estimated the average annual energy generation at 3,064 MWh.

The applicant states that the project is currently not economical at prevailing financing rates. No project construction has begun at the site.

l. *Purpose of Project:* Applicant intended to use the power for its municipal needs and sell surplus power to the City of Morgan.

m. *This notice also consists of the following standard paragraphs:* B and C.

2. a. *Type of Application:* Amendment of License.

b. *Project No.:* 4684-012.

c. *Date Filed:* June 27, 1989.

d. *Applicant:* Long Lake Energy Corporation.

e. *Name of Project:* Stillwater Hydroelectric Project.

f. *Location:* The project would use the existing Stillwater and Lock No. 4 Dams, located on the Hudson River, a navigable waterway of the United States, near the Township of Stillwater in Saratoga and Rensselaer Counties, New York.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)-825(r)

h. *Applicant Contract:* Mr. Sanford L. Hartman, Counsel, 420 Lexington Avenue, Suite 540, New York, NY 10170, (212) 986-0440.

i. *FERC Contact:* Ken Fearon, (202) 357-0666.

j. *Comment Date:* November 24, 1989.

k. *Description of Application:* The licensee proposes to add flashboards to the crest of the existing dam to maintain a reservoir having a mean surface elevation of 84.1 feet m.s.l.; relocate the powerhouse and appurtenances to the west bank of the Hudson River, adjacent to the dam abutment; and downsize the plant capacity from 4.97-MW to 3.0-MW by replacing the two double-regulated horizontal Kaplan turbine generator units with six smaller siphon intake, single-regulated horizontal Kaplan turbines.

l. *This notice also consists of the following standard paragraphs:* B, C, and D2.

3. a. *Type of Application:* Transfer of License.

b. *Project No.:* 7481-010.

c. *Date Filed:* August 10, 1989.

d. *Applicant:* Enerco Corporation and NYSD Limited Partnership.

e. *Name of Project:* New York State Dam.

f. *Location:* On the Mohawk River in Albany and Saratoga Counties, New York.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)—825(r).

h. *Applicant Contact:* Lee M. Goodwin, Wickwire Gavin, Two Lafayette Center, Suite 500, 1133—21st Street, NW., Washington, DC (202) 887-5200.

i. *FERC Contact:* Robert Bell (202) 357-0806.

j. *Comment Date:* October 31, 1989.

k. *Description of Project:* Enerco Corporation (Licensee) was issued license to construct, operate and maintain the New York State Dam Project No. 7481 on October 13, 1987. The license was amended on July 7, 1989. The licensee intends to transfer the license to NYSD limited Partnership (transferee), which will pruchase, construct, and operate the project. The Transferee agrees to accept the terms and conditions of the license as if it were the original license. The transfer is requested to facilitate the financing and construction of the Project.

l. *This notice also consists of the following standard paragraphs:* B and C.

4. a. *Type of Application:* Minor License.

b. *Project No.:* 10683-000.

c. *Date Filed:* November 1, 1988.

d. *Applicant:* Lansing Board of Water and Light.

e. *Name of Project:* North Lansing Dam.

f. *Location:* On the Grand River in the City of Lansing, County of Ingham, Michigan.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)—825(r).

h. *Applicant Contact:* Mr. Joe Pandy, Jr., P.O. Box 13007, Lansing, MI 48901, (517) 371-6710.

i. *FERC Contact:* Charles T. Raabe (202) 376-9778.

j. *Comment Date:* December 1, 1989.

k. *Description of Project:* The existing project consists of: (1) a 233-foot-long, 11.5-foot-high reinforced-concrete dam

having 4 drum-type gates; (2) a reservoir having a 100-acre surface area and a 500 acre-foot storage capacity at normal water surface elevation 817.5 feet; (3) an integral powerhouse at the right (east) abutment containing an existing 205-kw generating unit operated under an 8-foot head and at a flow of 380 cfs; (4) a 300-foot-long, 480-volt udnerground transmission line and a 480/4,160-volt transformer; (5) a fish ladder; and (6) appurtenant facilities. The existing hydroelectric facilities were constructed in 1936. No change to the current run-of-river operation is proposed. The average annual electrical generation has approximated 279,000 kWh. The primary function of the facility is to provide cooling water for the nearby Ottawa Station—a coal-fired power plant.

l. *This notice also consists of the following standard paragraphs:* A3, A9, B, C, D1.

5. a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 10801–000.

c. *Date Filed:* June 21, 1989.

d. *Applicant:* Boca Hydro Associates.

e. *Name of Project:* Boca Dam Project.

f. *Location:* On the Little Truckee River in Nevada County, California near the town of Truckee. T.18N, R.17E, sections 21 and 28, Mt. Diablo Meridian.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)—825(r).

h. *Applicant Contact:* Mr. David K. Iverson, Synergics, Inc., 410 Severn Ave., Suite 313, Annapolis, MD 21403, (301) 268–8820.

i. *FERC Contact:* Ms. Deborah Frazier-Stutely at (202) 376–1669.

j. *Comment Date:* November 22, 1989.

k. *Description of Project:* The project would be located at the outlet of the U.S. Bureau of Reclamation's Boca Dam. The project would consist of: (1) A 12-foot-long, 70-inch-diameter conduit; (2) a 90-foot-long penstock; (3) a powerhouse containing one or more generating units with a total installed capacity of 2,500 kW, producing an average annual energy output of 6.0 GWh; (4) a 1,500-foot-long, 14.4-kV transmission line tying into an existing Sierra Pacific Power Company line; No new access road will be needed to conduct the studies. The applicant estimates the cost of the studies to be conducted under the preliminary permit at $30,000.

l. *Purpose of Project:* Project Power would be sold to Sierra Pacific Power Company.

m. *This notice also consists of the following standard paragraphs:* A5, A7, A9, A10, B, C, and D2.

6. a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 10807–000.

c. *Date Filed:* July 21, 1989.

d. *Applicant:* Hydro Energy Development Corporation.

e. *Name of Project:* Big/Grade Creek.

f. *Location:* On Big and Grade Creek in Skagit and Snohomish Counties Washington near the town of Darrington, T32N, R9E and R10E; T33N, R11E, Willamette Meridan.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a) 825(r).

h. *Applicant Contacts:*

Mr. Martin W. Thompson, Vice President, Hydro Energy Development Corporation, 411 108th Avenue, N.E., Bellevue, Washington 98004–5515, (206) 453–7327;

Mr. Lon G. Covin, Hydro West Group, Inc., 1422 130th Avenue, N.E., Bellevue, WA 98005, (206) 455–0234;

Mr. Frank Frisk, Jr., Attorney-at-Law, 1054 31st St., NW., Washington, DC 20007, (202) 342–5267.

i. *Commission Contact:* Ms. Deborah Frazier-Stutely, (202) 376–1669.

j. *Comment Date:* December 11, 1989.

k. *Description of Project:* The proposed project would consist of: (1) An 80-foot-long diversion dam on Big Creek at elevation 1,560 feet; (2) a 40-foot-long diversion dam on Grade Creek at elevation 2,200 feet; (3) a 48-inch-diameter, 12,500-foot-long penstock; (4) a 36-inch-diameter 12,100-foot-long penstock; (5) a powerhouse containing two generating units with a combined installed capacity of 11,000 kW, producing an average annual energy output of 43.4 gWh; (6) a tailrace; (7) a 15-mile-long, 34.5-kV transmission line tying into an existing Puget Sound Power and Light Company line.

No new access road will be needed to conduct the studies. The applicant estimates the cost of the studies to be conducted under the preliminary permit at $300,000.

l. *Purpose of Project:* Project power would be sold to either Puget Sound Power and Light Company, Snohomish County PUD, Bonneville Power Administration or Tacoma Light.

m. *This notice also consists of the following standard paragraphs:* A5, A7, A9, A10, B, C, and D2.

7. a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 10816–000.

c. *Date Filed:* September 6, 1989.

d. *Applicant:* Bill Onweiler.

e. *Name of Project:* Box Creek Water Power Project.

f. *Location:* On Box Creek in Valley County, Idaho within the Payette National Forest, near the Town of McCall. T20N, R3E and R4E, Boise Meridian.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a) 825(r)

h. *Applicant Contacts:*

Mr. Bill Onweiler, P.O. Box H, McCall, ID 83638, (208) 634–2000;

Carl L. Myers, P.E., Myers Engineering Company, P.A., 750 Warm Springs Avenue, Boise, ID 83712, (208) 336–1425.

i. *Commission Contact:* Ms. Deborah Frazier-Stutely, (202) 376–1669.

j. *Comment Date:* December 14, 1989.

k. *Description of Project:* The proposed project would consist of: (1) a 2-foot-high diversion dam at elevation 6,730 feet; (2) an intake structure; (3) a 22-inch-diameter, 13,000-foot-long penstock; (4) a powerhouse containing a generating unit with an installed capacity of 3,100 kW, producing an average annual energy output of 5,854,000 kWh; (5) a tailrace; and (6) a 3-mile-long, 12.5-kV transmission line tying into an existing Idaho Power Company line.

No new access road will be needed to conduct the studies. The applicant estimates the cost of the studies to be conducted under the preliminary permit at $60,000.

l. *Purpose of Project:* Project power would be sold to Idaho Power Company.

m. *This notice also consists of the following standard paragraphs:* A5, A7, A9, A10, B, C, and D2.

8. a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 10819–000.

c. *Date Filed:* September 12, 1989.

d. *Applicant:* Idaho Water Resource Board.

e. *Name of Project:* Dworshak Hydroelectric Project.

f. *Location:* On the North Fork of Clearwater River in Clearwater County, Idaho.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a) 825(r).

h. *Applicant Contacts:* R. Keith Higginson, Director, Idaho Department of Water Resources, Statehouse Mail, Boise, Idaho 83720.

i. *Commission Contact:* Nanzo T. Coley, (202) 376–9416.

j. *Comment Date:* December 11, 1989.

k. *Description of Project:* The applicant proposes to utilize the proposed Clearwater Fish Hatchery (CFH) water supply system, which is currently being designed by the U.S. Army Corps of Engineers (Corps). The Corps proposes to construct an 18–inch and a 36–inch diameter pipe through its existing Dworkshak dam to supply water to the CFH and the Dworshak National Fish Hatchery. This water supply would be intercepted by the proposed project and then discharged into a distribution tank, which would divide the flows between the two

hatcheries. The proposed project would consist of: (1) A proposed 36–inch and a bifurcated 18–inch diameter penstock; (2) a proposed powerhouse containing one generating unit rated at 1,924 kW and two generating units rated at 300 kW each; (3) a proposed 115–kV transmission line; and (4) appurtenant facilities. The estimated average annual energy output for the project is 15,837,000 KWh. The applicant estimates the cost of the work to be performed under the preliminary permit at $200,000.

l. *Purpose of Project:* Power produced at the project would be sold to the Clearwater Power Company.

m. *This notice also consists of the following standard paragraphs:* A5, A7, A9, A10, B, C, and D2.

Standard Paragraphs

A3. *Development Application*—Any qualified development applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, a competing development application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing development application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permits will not be accepted in response to this notice.

A5. *Preliminary Permit*—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) (1) and (9) and 4.36.

A7. *Preliminary Permit*—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before the specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing licence application must conform with 18 CFR 4.30(b) (1) and (9) and 4.36.

A9. *Notice of intent*—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, include an unequivocal statement of intent to submit, if such an application may be filed, either (1) a preliminary permit application or (2) a development application (specify which type of application), and be served on the applicant(s) named in this public notice.

A10. *Proposed Scope of Studies under Permit*—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

B. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "Comments", "Notice of Intent to File Competing Application", "Competing Application", "Protest", "Motion to Intervene", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. An additional copy must be sent to Dean Shumway, Director, Divsion of Project Review, Federal Energy Regulatory Commission, Room 203–RB, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D1. *Agency Comments*—States, agencies established pursuant to federal law that have the authority to prepare a comprehensive plan for improving, developing, and conserving a waterway affected by the project, federal and state agencies exercising administration over fish and wildlife, flood control, navigation, irrigation, recreation, cultural or other relevant resources of the state in which the project is located, and affected Indian tribes are requested to provide comments and recommendations for terms and conditions pursuant to the Federal Power Act as amended by the Electric Consumers Protection Act of 1986, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Public Law No. 88–29, and other applicable statutes. Recommended terms and conditions must be based on supporting technical data filed with the Commission along with the recommendations, in order to comply with the requirement in section 313(b) of the Federal Power Act, 16 U.S.C. section 8251(b), that Commission findings as to facts must be supported by substantial evidence.

All other federal, state, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the statutes listed above. No other formal requests will be made. Responses should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the applicant. If an agency does not respond to the Commission within the time set for filing, it will be presumed to have no comments. One copy of an agency's response must also be sent to the Applicant's representatives.

D2. *Agency Comments*—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtain by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Dated: October 12, 1989.

Lois D. Cashell,

Secretary.

[FR Doc. 89–24533 Filed 10–17–89; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. CP90-11-000, et al.]

Tennessee Gas Pipeline Co. et al.; Natural Gas Certificate Filings

October 6, 1989.

Take notice that the following filings have been made with the Commission:

1. Tennessee Gas Pipeline Co.

[Docket No. CP90-11-000]

Take notice that on October 3, 1989, Tennessee Gas Pipeline Company (Tennessee), 1010 Milam, Houston, Texas 77002, filed in Docket No. CP90-11-000 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 Equinox Gas Supply, Inc. (Equinox), a marketer of natural gas, under Tennessee's blanket certificate, issued in Docket No. CP87-115-000, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Tennessee proposes to transport, on an interruptible basis, up to 100,000 dt equivalent of natural gas on a peak day, 100,000 dt equivalent on an average day and 36,500,000 dt equivalent on an annual basis. It is stated that Tennessee would receive the gas for Equinox's account at designated points on Tennessee's system in Louisiana, offshore Louisiana and Texas, and would deliver equivalent volumes at designated points on Tennessee's system in Alabama, Tennessee, Mississippi, Kentucky, West Virginia, Ohio, Pennsylvania, New York, Rhode Island, Massachusetts, Connecticut and Louisiana. It is asserted that the transportation service would be effected using existing facilities and would require no construction of additional facilities. It is explained that the service commenced August 31, 1989, under the self-implementing authorization provisions of § 284.223 of the Commission's Regulations, as reported in Docket No. ST89-4846.

Comment date: November 20, 1989, in accordance with Standard Paragraph G at the end of this paragraph.

2. Natural Gas Pipeline Company of America

[Docket No. CP90-18-000]

Take notice that on October 4, 1989, Natural Gas Pipeline Company of America (Natural), 701 East 22nd Street, Lombard, Illinois 60148, filed in Docket No. CP90-18-000 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 Phillips Petroleum Company (Phillips), a producer, under the 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 that is on file with the Commission and open to public inspection.

Natural states that pursuant to a transportation service agreement dated March 8, 1989, under its Rate Schedule ITS, it proposes to transport up to 10,000 MMBtu per day equivalent of natural gas for Phillips. Natural states that it would transport the gas (plus any additional volumes accepted pursuant to the overrun provisions of Natural's Rate Schedule ITS) from receipt points located in the Vermilion and West Cameron Areas, offshore Louisiana, and would deliver the gas to delivery points also located in Vermilion and West Cameron Areas, offshore Louisiana.

Natural advises that service under § 284.223(a) commenced August 1, 1989, as reported in Docket No. ST90-40-000. Natural further advises that it would transport 5,000 MMBtu on an average day and 1,825,000 MMBtu annually.

Comment date: November 20, 1989, in accordance with Standard Paragraph G at the end of this notice.

3. Trunkline Gas Co.

[Docket No. CP90-6-000]

Take notice that on October 3, 1989, Trunkline Gas Company (Trunkline), P.O. Box 1642, Houston, Texas 77251-1642, filed in Docket No. CP90-6-000 a request pursuant to § 157.205 of the Commission's Regulations for authorization to provide transportation service on behalf of American Central Gas Marketing Company (American Central), a marketer of natural gas, 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 20,000 dekatherms of natural gas per day for American Central from receipt points located in Illinois, Louisiana, Offshore Louisiana, Tennessee, Texas and Offshore Texas to a delivery point located in Jasper County, Indiana. Trunkline anticipates transporting 10,000 dekatherms on an average day and an annual volume of 3,650,000 dekatherms.

Trunkline states that the transportation of natural gas for American Central commenced August 16, 1989, as reported in Docket No. ST89-4787-000, 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: November 20, 1989, in accordance with Standard Paragraph G at the end of this notice.

4. Transcontinental Gas Pipe Line Corp.

[Docket No. CP90-2-000]

Take notice that on October 3, 1989, Transcontinental Gas Pipe Line Corporation (Transco), Post Office Box 1396, Houston, Texas 77251, filed in Docket No. CP90-2-000 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 transport gas for Phibin Distributors, Inc. (Shipper), under is blanket certificate 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 proposes to transport for Shipper 17,345,000 dt on a peak day, 250,000 dt on an average day and 91,250,000 on an annual basis. Transco also states that it will receive gas at various existing points in Virginia, Maryland, Pennsylvania, Mississippi, New Jersey, onshore and offshore Louisiana and onshore and offshore Texas and will deliver the gas at various existing delivery points in Pennsylvania, Alabama, Maryland, North Carolina, South Carolina, Virginia, Georgia, Mississippi, New Jersey, New York, Delaware, Onshore Louisiana and Onshore Texas.

Transco further states it commenced this service August 19, 1989, as reported in Docket No. ST89-4760-000.

Comment date: November 20, 1989, in accordance with Standard Paragraph G at the end of this notice.

5. Tennessee Gas Pipeline Co.

[Docket No. CP90-13-000]

Take notice that on October 3, 1989, Tennessee Gas Pipeline Company (Tennessee), P.O. Box 2511, Houston, Texas 77252, filed in Docket No. CP90-13-000 a request pursuant to § 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 284.223) for authorization to provide a transportation service for Texican Natural Gas Company (Texican), 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 July 12, 1989, as revalidated by letter dated September 8, 1989, to transport natural gas for Texican from points of receipt located in the offshore area of Louisiana, for delivery to the Grand Chenier plant in Cameron Parish, Louisiana. Tennessee further states that under the contract the maximum daily and average daily quantities are 30,000 dekatherms (dt) and 10,950,000 dt on an annual basis. Tennessee states that service under § 284.223(a) commenced September 19, 1989, as reported in Docket No. ST89–4948–000 filed September 28, 1989.

Comment date: November 20, 1989, in accordance with Standard Paragraph G at the end of this notice.

6. Texas Gas Transmission Corp.

[Docket No. CP90–21–000]

Take notice that on October 5, 1989, Texas Gas Transmission Corporation (Texas Gas), 3800 Frederica Street, Owensboro, Kentucky 42301, filed in Docket No. CP90–21–000 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 Tejas Power Corporation (Tejas), under the blanket certificate issued in Docket No. CP88–686–000, 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.

Texas Gas states that pursuant to a transportation agreement dated January 17, 1989, under its Rate Schedule IT, it proposes to transport up to 35,000 MMBtu per day equivalent of natural gas for Tejas. Texas Gas states that it would transport the gas from multiple receipt points as shown in Exhibit "B" of the transportation agreement and would deliver the gas at delivery points in Lafourche and Vermilion Parishes, Louisiana, as shown in Exhibit "C" of the agreement. It is stated that the recipient of the gas is Louisiana Gas Marketing, Inc.

Texas Gas advises that service under § 284.223(a) commenced September 2, 1989, as reported in Docket No. ST89–4732. Texas Gas further advises that it would transport 25,000 MMBtu on an average day and 12,775,000 MMBtu annually.

Comment date: November 20, 1989, in accordance with Standard Paragraph G at the end of this notice.

7. Black Marlin Pipeline Co.

[Docket No. CP90–15–000]

Take notice that on October 4, 1989, Black Marlin Pipeline Company (Black Marlin), P.O. Box 1188, 1400 Smith Street, Houston, Texas 77251–1188, filed in Docket No. CP90–15–000 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 Conoco Inc. (Conoco) under its blanket authorization issued to OCS pipelines under § 284.303(a) of the Commission's Regulation, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Black Marlin would perform the proposed firm transportation service for Conoco, pursuant to a firm transportation service agreement dated August 9, 1989 (Contract No. 8028). The transportation agreement is effective as of the date of the contract and shall remain in effect for a term of one year and month-to-month thereafter unless terminated by either party upon thirty days written notice. Black Marlin proposes to transport 15,000 MMBtu natural gas on a peak day; 11,250 MMBtu on an average day; and 5,475,000 MMBtu annually. Black Marlin proposes to receive the subject gas at High Island Block 171, Offshore Texas and deliver the subject gas to the Black Marlin/HPL Galveston 24" pipeline interconnection located in Texas City, Texas. Black Marlin avers that no new facilities are required to provide the proposed service.

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. Black Marlin commenced such self-implementing service on August 9, 1989, as reported in Docket No. ST89–4612–000.

Comment date: November 20, 1989, in accordance with Standard Paragraph G at the end of this notice.

8. Colorado Interstate Gas Co.

[Docket No. CP89–2209–000]

Take notice that on September 29, 1989, Colorado Interstate Gas Company (CIG), Post Office Box 1087, Colorado Springs, Colorado 80944, filed a request with the Commission in Docket No. CP89–2209–000 pursuant to § 157.205 of the Commission's Regulations (18 CFR 157.205) under the Natural Gas Act (NGA) for authorization to transport natural gas for Coastal Gas Marketing Company (Coastal), a natural gas marketer, under CIG's blanket certificate issued in Docket No. CP86–589–000, pursuant to section 7 of the NGA, all as more fully set forth in the request which is open to public inspection.

CIG proposes to transport for Coastal on an interruptible basis up to 40,000 Mcf of natural gas on average and peak days, and 14,600,000 Mcf on an annual basis. CIG would receive the gas for Coastal's account at existing points on its system in Colorado, Kansas, Oklahoma, Texas, and Wyoming and would deliver equivalent gas volumes for Coastal's account in Weld County, Colorado. CIG commenced its transportation service for Coastal on July 1, 1989, under the automatic authorization provisions of § 284.223 of the Commission's Regulations, as reported in Docket No. ST89–4245.

Comment date: November 20, 1989, in accordance with Standard Paragraph G at the end of this notice.

9. Northern Natural Gas Company Division of Enron Corporation

[Docket No. CP89–2189–000]

Take notice that on September 28, 1989, Northern Natural Gas Company, Division of Enron Corporation (Northern), 1400 Smith Street, P.O. Box 1188, Houston, Texas 77251–1188, filed in Docket No. CP89–2189–000, a prior notice request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations for authorization to transport natural gas for Transco Energy Marketing Company (Transco), a marketer of natural gas, under the certificate issued in Docket No. CP86–435–000, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Northern requests authorization to transport up to 15,000 MMBtu of natural gas per day, pursuant to an August 18, 1989, agreement between Northern and Transco from receipt points located in offshore Texas to delivery points located in offshore Texas. Northern would provide the service to Transco under the provisions of its Rate Schedule IT-1, it is indicated. Northern further states that the average and annual quantities would be 11,250 MMBtu and 5,475,000 MMBtu, respectively.

Northern states that the transportation of natural gas for Transco commenced August 18, 1989, for a 120-day period pursuant to § 284.223(a) of the Commission's Regulations as reported in Docket No. ST89–4694–000.

Comment date: November 20, 1989, in accordance with Standard Paragraph G at the end of this notice.

10. Southern Natural Gas Co.

[Docket No. CP90–8–000]

Take notice that on October 3, 1989, Southern Natural Gas Company (Southern), Post Office Box 2563, Birmingham, Alabama 35202–2563, filed in Docket No. CP90–8–000 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 Diamond Shamrock Gas Marketing Company (Diamond Shamrock), a marketer, under Southern's blanket certificate issued in Docket No. CP88–316–000, 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.

Southern states that pursuant to a service agreement dated July 24, 1989, it proposes to receive up to 150,000 million Btu per day at specified points located in onshore and offshore Louisiana, Texas, Alabama, and Mississippi and redeliver the gas at specified points located in the state of Georgia. Southern estimates that on a peak day and average day it would transport 150,000 million Btu and that it would transport 54,750,000 million Btu annually. It is stated that on August 3, 1989, Southern initiated a 120-day transportation service for Diamond Shamrock under § 284.223(a) as reported in Docket No. ST89–473–000.

Southern further states that no facilities need be constructed to implement the service. Southern states that the service continues on a month-to-month basis until cancelled by either party giving five days written notice to the other party. Southern proposes to charge rates and abide by the terms and conditions of its Rate Schedule IT.

Comment date: November 20, 1989, in accordance with Standard Paragraph G at the end of this paragraph.

11. Panhandle Eastern Pipe Line Company

[Docket No. CP89–2202–000]

Take notice that on September 29, 1989, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77251–1642, filed in Docket No. CP89–2202–000 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 284.223) for authorization to transport natural gas for BHP Gas Marketing Company (BHP), a shipper and 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 up to 3,000 dekatherms (dkt) of natural gas equivalent per day on an interruptible basis on behalf of BHP pursuant to a transportation agreement dated August 3, 1989, between Panhandle and BHP. Panhandle would receive the gas at various existing points of receipt in its Wyoming and deliver equivalent volumes, less fuel used and unaccounted for line loss, to CIG Red Desert in Sweetwater County, Wyoming.

Panhandle states that the estimated daily and annual quantities would be 2,600 dkt and 1,000,000 dkt, respectively. Service under § 284.223(a) commenced on August 9, 1989, as reported in Docket No. ST89–4739–000.

Comment date: November 20, 1989, in accordance with Standard Paragraph G at the end of this notice.

12. Southern Natural Gas Co.

[Docket No. CP89–2207–000]

Take notice that on September 27, 1989, Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama 35202–2563, filed in Docket No. CP89–2207–000 an application 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 the Diamond Shamrock Offshore Partners Limited Partnership (Diamond Shamrock), 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 60,100 MMBtu of natural gas per day for Diamond Shamrock. Southern states that construction of facilities would not be required to provide the proposed service.

Southern further states that the maximum day, average day, and annual transportation volumes would be approximately 60,100 MMBtu, 123 MMBtu and 45,000 MMBtu respectively.

Southern advises that service under § 284.223(a) commenced August 2, 1989, as reported in Docket No. ST89–4477.

Comment date: November 20, 1989, in accordance with Standard Paragraph G at the end of this notice.

13. Panhandle Eastern Pipe Line Co.

[Docket No. CP89–2204–000]

Take notice that on September 29, 1989, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77251–1642, filed in Docket No. CP89–2204–000, 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 for Transtate Gas Service Company (Transtate), a shipper and marketer of natural gas, under Panhandle's blanket certificate issued in Docket No. CP86–585–000 under 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.

Specially, Panhandle requests authority to transport up to 75,000 Dt per day on an interruptible basis on behalf of Transtate pursuant to a transportation agreement dated July 25, 1989, between Panhandle and Transtate. The transportation agreement provides for Panhandle to receive gas from various existing points of receipt in Colorado, Kansas, Oklahoma, and Texas. Panhandle will then transport and redeliver subject gas, less fuel used and unaccounted for line loss, to Haven Pool in Reno County, Kansas.

Panhandle states that the proposed estimated daily and estimated annual quantities would be 75,000 Dt and 27,375,000 Dt, respectively. Service under § 284.223(a) commenced on August 1, 1989, as reported in Docket No. ST89–4738.

Comment date: November 20, 1989, in accordance with Standard Paragraph G at the end of this notice.

14. Southern Natural Gas Co.

[Docket No. CP89–2208–000]

Take notice that on September 29, 1989, Southern Natural Gas Company (Southern), Post Office Box 2563, Birmingham, Alabama 35202–2563, filed in Docket No. CP89–2208–000 a request pursuant to § 157.205 of the Commission's Regulations for authorization to transport natural gas on behalf of Texican Natural Gas Company (Texican), a marketer 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 20,500 MMBtu equivalent of natural gas on a peak day, 20,219 MMBtu equivalent on an average

day, and 7,380,000 MMBtu equivalent on an annual basis for Texican. 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 at existing points on Southern's system in Georgia and South Carolina. 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 August 2, 1989, under the automatic authorization provisions of § 284.223 of the Commission's Regulations, as reported in Docket No. ST89-4631.

Comment date: November 20, 1989, in accordance with Standard Paragraph G at the end of this notice.

15. United Gas Pipe Line Co.

[Docket No. CP89-2200-000]

Take notice that on September 29, 1989, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251-1478, made a prior notice filing pursuant to §§ 157.205 and 284.223 in Docket No. CP89-2200-000, to provide interruptible transportatıcn service on behalf of CNG Trading Company (CNG), a marketer of natural gas, under United's blanket certificate issued in Docket No. CP88-6-000 all as more fully set forth in the request on file with the Commission and open to public inspection.

United states that the Interruptible Gas Transportation Agreement T1-21-1890, dated October 3, 1988, as amended May 22, 1989, proposes to transport a maximum daily quantity of 30,900 MMBtu, and that service commenced August 3, 1989, as reported in Docket No. ST89-4553-000, pursuant to § 284.223(a) of the Commission's Regulations.

Comment date: November 20, 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 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. 89-24526 Filed 10-17-89; 8:45am]

BILLING CODE 6717-01-M

Federal Energy Regulatory Commission

[Docket No. RP89-253-001]

Carnegie Natural Gas Co.; Filing

October 11, 1989.

Take notice that on October 5, 1989, Carnegie Natural Gas Company (Carnegie) filed certain tariff sheets to its FERC Gas Tariff, Second Revised Volume No. 1.

Carnegie states that this filing corrects certain inadvertent errors that exist in its September 29, 1989 filing. Carnegie states that this supplemental filing provides superseding tariff sheets which correct those errors.

Carnegie requests that the Commission grant such waivers as it may deem necessary for the acceptance of these tariff sheets, with an effective date of November 1, 1989.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1988)). All such protests should be filed on or before October 18, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-24527 Filed 10-17-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP89-164-001 and TA90-1-23-001]

Eastern Shore Natural Gas Co.; Proposed Changes in FERC Gas Tariff

October 11, 1989.

Take notice that Eastern Shore Natural Gas Company (ESNG) tendered for filing on October 3, 1989 certain substitute revised tariff sheets included in appendix A attached to the filing. Such tariff sheets are proposed to be effective November 1, 1989.

ESNG states that such tariff sheets are being filed to comply with paragraph (B) of the Commission's Order Accepting for Filing and Suspending Tariff Sheets Subject to Refund and Conditions and Establishing Hearing Procedures. Such ordering paragraph requires ESNG to file revised tariff sheets and supporting workpapers to revise its base tariff rates to reflect the elimination of the cost of facilities not in service by September 30, 1989.

ESNG states that copies of the filing have been served upon its jurisdictional customers and interested State Commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC, in accordance with Rule 211 and Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such protests should be filed on or before October 18, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-24528 Filed 10-17-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP90-6-000]

El Paso Natural Gas Co.; Proposed Change in Rates

October 11, 1989.

Take notice that on October 5, 1989, El Paso Natural Gas Company ("El Paso") tendered for filing pursuant to section 4 of the Natural Gas Act and part 154 of the Federal Energy Regulatory Commission's ("Commission") Regulations Under the Natural Gas Act certain tariff sheets to its FERC Gas Tariff, First Revised Volume No. 1 and Third Revised Volume No. 2.

El Paso states that the tendered tariff sheets, when accepted by the Commission and permitted to become effective, serve to permit El Paso to eliminate the Liquids Surcharge established in the Offer of Settlement at Docket No. RP86-157-000 and in lieu thereof permit El Paso to direct bill, each

month, certain east-of-California ("EOC") one-part rate firm sales customers for their allocable share of the remaining net liquid revenue deficiency as settled at Docket No. RP86–157–000.

El Paso states that on August 31, 1989 at Docket Nos. TQ90–1–33–000, TQ90–1–33–001 and TQ90–1–33–002, El Paso filed, along with its quarterly purchased gas adjustment filing, a request for waiver of Article 2.10(b) of the Offer of Settlement at Docket No. RP86–157–000 ("Liquids Settlement") to accomplish such direct billing of the remaining net liquids revenue deficiency. By order issued September 29, 1989 at said docket, the Commission denied such request; but the Commission also stated that, "If El Paso believes the liquids revenue deficiency should be direct billed, it could make the proposal in a section 4 rate proceeding."

Accordingly, El Paso requested waiver of Article 2.10(b) of the Liquids Settlement at Docket No. RP86–157–000 to eliminate the RP86–157 Liquids Surcharge and in lieu thereof directly bill, each month, its EOC one-part rate sales customers, inclusive of the continuation of the current procedure applied to Gas Company of New Mexico, for their allocable share of the remaining net liquids revenue deficiency.

El Paso respectfully requested expeditious treatment of the filing and that the Commission grant such waivers of its applicable rules and regulations as may be necessary to permit the tendered tariff sheets to become effective October 1, 1989. Such action will permit El Paso to begin as soon as possible to equitably allocate, direct bill and collect the remaining net liquid revenue deficiency.

Copies of the filing were served upon all of El Paso's interstate pipeline system sales customers, all parties of record at Docket No. RP86–157–000, and all interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before October 18, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestant parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 89–24529 Filed 10–17–89; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP90–7–000]

Northwest Pipeline Corp.; Proposed Change in FERC Gas Tariff

October 11, 1989.

Take notice that on October 5, 1989, Northwest Pipeline Corporation ("Northwest") tendered the following tariff sheets to be part of its FERC Gas Tariff, First Revised Volume No. 1.

Fifth Revised Sheet No. 32
Original Sheet No. 32–A
Fourth Revised Sheet No. 34
Third Revised Sheet No. 35
Third Revised Sheet No. 36

Northwest states that the purpose of this filing is to conform Northwest's Rate Schedule SGS–1 to the terms of a new Gas Storage Agreement among Northwest, Washington Natural Gas Company and Washington Water Power Company, the owners of the Jackson Prairie Storage Project.

Northwest requests waiver of the Commission's regulations to permit an effective date of November 1, 1989, coincident with the effective date requested by Washington Natural Gas in a related filing in Docket No. RP90–252–000.

A copy of this filing has been served on all jurisdictional sales customers and affected state regulatory Commission.

Any person desiring to be heard or protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before October 18, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 89–24530 Filed 10–17–89; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. RP89–160–000 and RP89–114–000]

Trunkline Gas Co.; Informal Settlement Conference

October 11, 1989.

Take notice that a settlement conference will be convened in this proceeding on November 2, 1989, at 10:00 a.m., at the offices of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC, for the purpose of exploring the possible settlement of the above-referenced dockets.

Any party, as defined by 18 CFR 385.102(c), or any participant as defined by 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information, contact J. Carmen Gastilo (202) 357–8410 or Donald A. Heyde (202) 357–5248.

Lois D. Cashell,

Secretary.

FR Doc. 89–24531 Filed 10–17–89; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ES89–38–000

Utilicorp United Inc.; Application

October 12, 1989.

Take notice that on September 27, 1989, UtiliCorp United Inc. ("Application") file an application with the Federal Energy Regulatory Commission ("Commission"), pursuant to Section 204 of the Federal Power Act, seeking authority to issue not more than 2,000,000 shares of common stock, par value $1.00 per share, and for exemption from the competitive bidding requirements. This notice replaces the notice issued September 29, 1989 (54 FR 41667, October 11, 1989).

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 will be considered by the Commission 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 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. 89-24532 Filed 10-17-89; 8:45 am]

BILLING CODE 6717-01-M

Office of Energy Research

Energy Research Advisory Board; Cold Fushion Panel

Notice is hereby given of the following meeting:

Name: Cold Fusion Panel of the Energy Research Advisory Board (ERAB), Office of Energy Research, DOE.

Date & Time: October 30, 1989, 8:30 a.m.–5:00 p.m., October 31, 1989, 8:30 a.m.–Noon.

Place: Department of Energy, 1000 Independence Avenue, SW., Room 4A-110, Washington, DC 20585.

Contact: William L. Woodard, Department of Energy, Office of Energy Research, 1000 Independence Avenue, SW, Washington, DC 20585, (202) 586-5767.

Purpose of the Parent Board: To advise the Department of Energy (DOE) on the overall research and development conducted in DOE and to provide long-range guidance in these areas to the Department.

Purpose of the Panel: The purpose of the Panel is to review the experiments and theory of the recent work on cold fusion; identify research that should be undertaken to determine, if possible, what physical, chemical, or other processes may be involved; and identify what R&D direction DOE should pursue to fully understand these phenomena and develop the information that could lead to their practical application.

Tentative Agenda: The specific agenda items are subject to last minute changes. Visitors planning to attend for a specific topic should confirm the time prior to and during the date of the meeting.

Agenda October 30–31

- Administrative items.
- Discussion and Drafting of Final Report.
- Public Comment (10 minute rule).

Agenda October 31

- Future Meeting Schedule.
- Discussion and Drafting of Final Report.
- Public Comment (10 minute rule).

Public Participation: The meeting is open to the public. Written statements may be filed with the Panel either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact William Woodard at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provisions will be made to include the presentation on the agenda. The Chairmen of the Panel are empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Minutes of the Meting: Available for public review and copying at the Freedom of Information Public Reading Room, 1E-190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, between 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal Holidays.

J. Robert Franklin,

Deputy Advisory Committee, Management Officer.

[FR Doc. 89-24598 Filed 10-17-89 8:45 am]

BILLING CODE 6450-01-M

Office of Fossil Energy

Coal Policy Committee; National Coal Council; 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 meeting:

Name: Coal Policy Committee of the National Coal Council, Office of Fossil Energy, DOE.

Date and Time: Wednesday, November 8, 1989, 8:30 a.m.

Place: The Madison Hotel, 15th & M Streets NW., Washington, DC.

Contact: Margie D. Biggerstaff, U.S. Department of Energy, Office of Fossil Energy (FE-1), Washington, DC 20585, Telephone: 202/586-4695.

Purpose of the Parent Council: To provide advice, information, and recommendations to the Secretary of Energy on matters relating to coal and coal industry issues.

Purpose of the Meeting: To discuss studies the Council are presently preparing.

Tentative Agenda:

—Call to order by Irving Leibson, Chairman.
—Update on coal Utilization.
—Update on "The Future Long-Range Use of Coal in the United States—Its Strategic, Economic, and Environmental Considerations."
—Discuss any other business properly brought before the National Coal Council Coal Policy Committee.
—Adjournment

Public Participation: The meeting is open to the public. The Chairman of the Committe is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Ms. Margie D. Biggerstaff at the address or telephone number listed above. Requests must be received at least 5 days prior to the meeting and reasonable provisions will be made to include the presentation on the agenda.

Transcripts: Available for public review and copying at the Public Reading Room, Room 1E-190, Forrestal Building, 1000 Independence Avenue SW., Washington, DC, between 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

J. Robert Franklin,

Deputy Advisory Committee, Management Officer.

[FR Doc. 89-24595 Filed 10-17-89; 8:45 am]

BILLING CODE 6450-01-M

National Coal Council; 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 meeting:

Name: National Coal Council, Office of Fossil Energy, DOE.

Date and Time: Thursday, November 9, 1989, 9:30 a.m.

Place: The Madison Hotel, 15 & M Streets, NW., Washington, DC.

Contact: Margie D. Biggerstaff, U.S. Department of Energy, Office of Fossil Energy (FE-1), Washington, DC 20585, Telephone: 202/586-4695.

Purpose of the Council: To provide advice, information, and recommendations to the Secretary of Energy on matters relating to coal and coal industry issues.

Tentative Agenda:

—Call to order by William Carr, Chairman of the National Coal Council.
—Remarks by Chairman Carr.
—Keynote speaker Admiral James Watkins, USN (Ret), Secretary of Energy.
—Report to the Coal Policy Committee.
—Report of the Finance Committee.
—Discussion of any other business properly brought before the Council.
—Adjournment.

Public Participation: The meeting is open to the public. The chairman of the Council is empowered to conduct the

meeting in a fashion that will facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Council will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Ms. Margie D. Biggerstaff at the address or telephone number listed above. Requests must be received at least 5 days prior to the meeting and reasonable provisions will be made to include the presentation on the agenda.

Transcripts: Available for public review and copying at the Public Reading Room, Room 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, between 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

J. Robert Franklin,

Deputy Advisory Committee, Management Officer.

[FR Doc. 89–24596 Filed 10–17–89; 8:45 am]

BILLING CODE 6450–01–M

Vector Energy (U.S.A.) Inc.; Application to Amend and Extend a Blanket Authorization to Export Natural Gas

[FE Docket No. 89–66–NG]

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of application to amend and extend a blanket authorization to export natural gas.

SUMMARY: The Office of Fossil energy (FE) of the Department of Energy (DOE) gives notice of receipt on September 18, 1989, of a request by Vector Energy (U.S.A.) Inc. (Vector) to amend and extend its blanket authorization to export natural gas to Canada. Vector, a Delaware corporation, is currently authorized by DOE/ERA Opinion Order No. 194 (1 ERA Para. 70,725), issued October 5, 1987, and filed in ERA Docket No. 87–38–NG, to export up to 60 Bcf of natural gas for a two-year period ending November 1, 1989. Vector is requesting that its authorization be (1) amended to allow it to export up to an additional 40 Bcf of natural gas (100 Bcf total), and (2) extended for a two-year period until November 1, 1991. Vector intends to continue to use existing pipeline facilities for the transportation of the requested exports and to submit quarterly reports giving details of individual transactions.

The application is filed with the Department under section 3 of the Natural Gas Act and DOE Delegation Order Nos. 0204–111 and 0204–127. Protests, motions to intervene, notices of intervention and written comments are invited.

DATE: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed at the address listed below no later than 4:30 p.m., e.s.t. November 17, 1989.

ADDRESS: Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, Room 3F–056, FE–50, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION:

Lot Cooke, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, Room 3H–087, 1000 Independence Avenue, SW., Washington, DC. 20585, (202) 586–8116;

Michael T. Skinker, Natural Gas and Mineral Leasing, Office of General Counsel, U.S. Department of Energy, Forrestal Building, Room 6E–042, 1000 Independence Avenue, SW., Washington, DC. 20585, (202) 586–6667.

SUPPLEMENTARY INFORMATION:

This export authorization will be reviewed under section 3 of the Natural Gas and the authority contained in DOE Delegation Order Nos. 0204–111 and 0204–127. In deciding whether the proposed export of natural gas is in the public interest, domestic need for the gas will be considered, and any other issues determined to be appropriate, including whether the arrangement is consistent with the DOE policy of promoting competition in the natural gas marketplace by allowing commercial parties to freely negotiate their own trade arrangements. Parties, especially those that may oppose this application, should comment on these matters as they relate to the requested export authority. The applicant asserts that there is no current need for the domestic gas that would be exported under the proposed arrangement. Parties opposing this arrangement bear the burden of overcoming this assertion.

Vector requests expedited treatment of its application. A decision on Vector's request for expedited treatment will not be made until all responses to this notice have been received and evaluated.

NEPA Compliance

The DOE has determined that compliance with the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.*, can be accomplished by means of categorical exclusion. On March 29, 1989, the DOE published in the **Federal Register** (54 FR 12474) a notice of amendments to its guidelines for compliance with NEPA. In that notice, the DOE added to its list of categorical exclusions the approval or disapproval of an import/export authorization for natural gas in cases not involving new construction. Application of the categorical exclusion in any particular case raises a rebuttable presumption that the DOE's action is not a major Federal action under NEPA. Unless the DOE receives comments indicating that the presumption does not or should not apply in this case, no further NEPA review will be conducted by the DOE.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR part 590. Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs at the above address.

It is intended that a decisional record will be developed on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additonal procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there

are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, a notice will be provided to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of Vector's application is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056, at the above address. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC on October 11, 1989.

Constance L. Buckley,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 89–24597 Filed 10–17–89; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–3672–1]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden.

DATE: Comments must be submitted on or before November 17, 1989.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA, (202) 382–2740.

SUPPLEMENTARY INFORMATION:

Office of Pesticides and Toxic Substances

Title: Census of Toxicological Testing Facilities (EPA ICR #1544.01). This ICR requests clearnace for a new collection.

Abstract: Under section 4 of the Toxic Substances Control Act, EPA must consider the availability of testing services prior to issuing test rules for chemicals. The proposed census of toxicological testing facilities is designed to determine whether sufficient capacity exists to absorb the demand for laboratory tests generated by the increase in both test rules and other regulatory requirements that involve testing for human health and environmental effects and chemical and environmental fate.

Burden Statement: The public reporting burden for this collection of information is estimated to average 5 hours per response. These estimates include the time for reviewing instructions, searching existing data sources, gathering the data needed, and completing and reviewing the collection of information.

Respondents: Toxicological testing facilities.

Estimated No. of Respondents: 435.

Estimated Total Annual Burden on Respondents: 2175 hours.

Frequency of Collection: One time.

Send comments regarding the burden estimates, or any other aspect of this collection of information, including suggestions for reducing the burden, to:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (PM–223), 401 M Street, SW, Washington, DC 20460.
and
Tim Hunt, Office of Management and Budget, Paperwork Reduction Project, Washington, DC 20503 (Telephone (202) 395–3084).

Dated: October 5, 1989.

Paul Lapsley,

Director Information and Regulatory Systems Division.

[FR Doc. 89–24518 Filed 10–17–89; 8:45 am]

BILLING CODE 6560–50–M

[OPTS–400037; FRL–3659–7]

Emergency Planning and Community Right-To-Know Act; Train-The-Trainers Conference

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of conferences.

SUMMARY: EPA will hold two 2-day train-the-trainers conferences on section 313 of the Emergency Planning and Community Right-to-Know Act reporting requirements. The purpose of this training is to present a model course to persons who plan to train others to comply with the reporting requirements of section 313. Persons who should consider attending are representatives from industry, consulting firms, or university continuing education departments. Attendance is restricted to organizations that intend to provide training on a regular basis and expect to conduct a minimum of two training courses on section 313 prior to July 1, 1990. Persons who successfully complete the course will obatin a certification of proficiency. There is limited space available. Requests should be sent in writing to the person listed in **"FOR FURTHER INFORMATION CONTACT"**. Notification will be sent to each applicant regarding their acceptance for the training session. There is no charge for this training.

DATES: The meeting in San Francisco, CA will be held Wednesday and Thursday, November 14th and 15th, 1989. The meeting in Dallas, TX will be held December 6th and 7th, 1989. Both meetings will start each day at 9 a.m. and end at approximately 5 p.m.

ADDRESSES: The San Francisco meeting will be held at: 120 Howard St., Room 206 and 207, San Francisco, CA.

The Dallas meeting will be held at: 1445 Ross Avenue, First Interstate Bank Tower, USEPA 12th Floor, Dallas, TX.

FOR FURTHER INFORMATION CONTACT: Lee Ann duFief, Economics and Technology Division, Office of Toxic Substances, Environmental Protection Agency, 401 M St., SW., (OS–120), Washington, DC 20460, Telephone: (202–382–3112).

SUPPLEMENTARY INFORMATION: Requests for registration will not be accepted after October 26, 1989.

Dated: October 11, 1989.

Michael Shapiro,

Acting Director, Office of Toxic Substances.

[FR Doc. 89–24516 Filed 10–17–89; 8:45 am]

BILLING CODE 6560–50–M

Citizens Advisory Committee Gulf of Mexico Program; Open Meeting

[FRL–3672–2]

Date: November 2–4, 1989.
Place: New Orleans, Louisiana.
Agenda Items:

—Louisiana Coastal Erosion Problems
—Oil Spill Response in the Gulf
—Citizens Workshops on: Agriculture, Business/Industry, Fisheries, Tourism, Environment
—Reports from other Gulf of Mexico Program committees
—1990 Status-of-the-Gulf Symposium
—Citizens Monitoring Workshop—New Orleans, LA, Dec. 6–8, 1989

Contact: William R. Whitson, Assistant Director for Operations, Gulf of Mexico Program Office, Building 1103, Room 202, John C. Stennis Space Center,

Stennis Space Center, MS 39529, (601) 688–3726.

Al J. Smith,

Acting Director, Water Management Division.

[FR Doc. 89–24661 Filed 10–17–89; 8:45 am]

BILLING CODE 6560–50–M

Office of Pesticides and Toxic Substances

[OPTS–59276A; FRL 3660–6]

Certain Chemicals Approval of a Test Marketing Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of an application for test marketing exemption (TME) under section 5(h)(1) of the Toxic Substances Control Act (TSCA) and 40 CFR 720.38. EPA has designated this application as TME–89–26. The test marketing conditions are described below.

EFFECTIVE DATE: October 10, 1989.

FOR FURTHER INFORMATION CONTACT: Andrea Pfahles-Hutchens, New Chemicals Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–611, 401 M St. SW., Washington, DC 20460 (202) 382–2255.

SUPPLEMENTARY INFORMATION: Section 5(h)(1) of TSCA authorizes EPA to exempt persons from premanufacture notification (PMN) requirements and permit them to manufacture or import new chemical substances for test marketing purposes if the Agency finds that the manufacture, processing, distribution in commerce, use, and disposal of the substances for test marketing purposes will not present any unreasonable risk of injury to health or the environment. EPA may impose restrictions on test marketing activities and may modify or revoke a test marketing exemption upon receipt of new information which casts significant doubt on its finding that the test marketing activity will not present any unreasonable risk of injury.

EPA hereby approves TME–89–26. EPA has determined that test marketing of the new chemical substance described below, under the conditions set out in the TME application and the restrictions specified below, will not present any unreasonable risk of injury to health or the environment. The test marketing time period, production volume, use, and the number of customers must not exceed that specified in the application. All other conditions and restrictions described in the application and in this notice must be met.

The following additional restrictions apply to TME–89–26. A bill of lading accompanying each shipment must state that the use of the substance is restricted to that approved in the TME. In addition, the applicant shall maintain the following records until 5 years after the date they are created, and shall make them available for inspection or copying in accordance with section 11 of TSCA:

1. Records of the quantity of the TME substance produced and the date of manufacture.

2. Records of dates of the shipments to each customer and the quantities suppled in each shipment.

3. Copies of the bill of lading that accompanies each shipment of the TME substance.

TME–89–26

Date of Receipt: September 1, 1989.

Notice of Receipt: September 25, 1989 (54 FR 39230).

Applicant: Westvaco Corporation.

Chemical: (G) Lignin, deploymerized.

Use: Dispresant for Carbon Black.

Production Volume: Confidential.

Number of Customers: Confidential.

Test Marketing Period: Confidential.

Risk Assessment: EPA identified no significant health or environmental concerns for the test market substance. Therefore, the test market activities will not present any unreasonable risk of injury to health or the environment.

The Agency reserves the right to rescind approval or modify the conditions and restrictions of an exemption should any new information that comes to its attention cast significant doubt on its finding that the test marketing activities will not present any unreasonable risk of injury to health or the environment.

Dated: October 10, 1989.

John W. Melone,

Director, Chemical Control Division, Office of Toxic Substances.

[FR Doc. 89–24569 Filed 10–17–89; 8:45 am]–

BILLING CODE 6560–50–M

[FRL–3657–8]

Clean Water Act Class II: Proposed Administrative Penalty Assessment and Opportunity To Comment Regarding the City of Kansas City, KS

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed administrative penalty assessment and opportunity to comment regarding the City of Kansas City, Kansas.

SUMMARY: EPA is providing notice of a proposed administrative penalty assessment for alleged violations of the Clean Water Act. EPA is also providing notice of opportunity to comment on the proposed assessment. Under 33 U.S.C. 1319(g), EPA is authorized to issue orders assessing civil penalties for various violations of the Act. EPA may issue such orders after filing a Complaint commencing either a Class I or Class II penalty proceeding. EPA provides public notice of the proposed assessment pursuant to 33 U.S.C. 1319(g)(4)(a).

Class II proceedings are conducted under EPA's Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation and Suspension of Permits, 40 CFR part 22. The procedures by which the public may submit written comments on a proposed Class II order or participate in a Class II proceeding, and the procedures by which a respondent may request a hearing, are set forth in the Consolidated Rules. The deadline for submitting public comment on a proposed Class II order is thirty days after issuance of this public notice.

On September 13, 1989, EPA commenced the following Class II proceeding for the assessment of penalties by filing with the Regional Hearing Clerk, U.S. Environmental Protection Agency, Region VII, 726 Minnesota Avenue, Kansas City, Kansas 66101, (913) 236–2853, the following Complaint: In the Matter of the City of Kansas City, Kansas, EPA Docket No. VII 89–W–0008. The Complaint proposes a penalty of $125,000, for failure to implement and enforce the City's pretreatment program pursuant to the terms part D Pretreatment Program of the City's National Pollutant Discharge Elimination System (NPDES) Permit No. KS–00038563.

FOR FURTHER INFORMATION CONTACT: Persons wishing to receive a copy of EPA's Consolidated Rules, review the Complaint or other documents filed in this proceeding, comment upon the proposed penalty assessment, or otherwise participate in the proceeding should contact the Regional Hearing Clerk identified above.

The administrative record for the proceeding is located in the EPA Regional Office at the address stated above, and the file will be open for public inspection during normal business hours. All information submitted by the City of Kansas City, Kansas is available as part of the

administrative record, subject to provisions of law restricting public disclosure of confidential information. In order to provide opportunity for public comment, EPA will issue no final order assessing a penalty in this proceeding for thirty days from the date of this Notice.

Dated: September 13, 1989.

Morris Kay,

Regional Administrator.

[FR Doc. 89-24517 Filed 10-17-89; 8:45 am]

BILLING CODE 6560-50-M

[FRL-3671-7]

Clean Water Act Class II: Proposed Administrative Penalty Assessment and Opportunity To Comment Regarding the Little Blue Valley Sewer District (LBVSD)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed administrative penalty assessment and opportunity to comment regarding LBVSD.

SUMMARY: EPA is providing notice of a proposed administrative penalty assessment for alleged violations of the Clean Water Act. EPA is also providing notice of opportunity to comment on the proposed penalty assessment. Under 33 U.S.C. 1319(g), EPA is authorized to issue orders assessing civil penalties for various violations of the Act. EPA may issue such orders after filing a Complaint commencing either a Class I or Class II penalty proceeding. EPA provides public notice of the proposed assessment pursuant to 33 U.S.C. 1319(g)(4)(a).

Class II proceedings are conducted under EPA's Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation and Suspension of Permits, 40 CFR part 22. The procedures by which the public may submit written comments on a proposed Class II order or participate in a Class II proceeding, and the procedures by which a respondent may request a hearing, are set forth in the Consolidated Rules. The deadline for submitting public comment on a proposed Class II order is thirty days after issuance of this public notice.

On September 25, 1989, EPA commenced the following Class II proceeding for the assessment of penalties by filing with the Regional Hearing Clerk, U.S. Environmental Protection Agency, Region VII, 726 Minnesota Avenue, Kansas City, Kansas 66101, (913) 236-2853, the following Complaint: In the Matter of the Little Blue Valley Sewer District, EPA Docket No. VII 89-W-0009. The Complaint proposes a penalty of $60,000, for failure to implement and enforce LBVSD's pretreatment program pursuant to the terms part C. Special Conditions of the LBVSD's National Pollutant Discharge Elimination System (NPDES) Permit No. MO-0101087.

FOR FURTHER INFORMATION CONTACT: Persons wishing to receive a copy of EPA's Consolidated Rules, review the Complaint or other documents filed in this proceeding, comment upon the proposed penalty assessment, or otherwise participate in the proceeding should contact the Regional Hearing Clerk identified above.

The administrative record for the proceeding is located in the EPA Regional Office at the address stated above, and the file will be open for public inspection during normal business hours. All information submitted by the LBVSD is available as part of the administrative record, subject to provisions to law restricting public disclosure of confidential information. In order to provide opportunity for public comment, EPA will issue no final order assessing a penalty in this proceeding for thirty days from the date of this Notice.

Dated: September 25, 1989.

Morris Kay,

Regional Administrator.

[FR Doc. 89-24515 Filed 10-17-89; 8:45 am]

BILLING CODE 6560-50-M

[FRL-3657-3]

North Dakota's Application for National Pollutant Discharge Elimination System (NPDES) General Permit Authority

AGENCY: Environmental Protection Agency.

ACTION: Notice of application, public comment period.

SUMMARY: On September 20, 1989, the State of North Dakota submitted to EPA a final application for authority to administer general permits under the NPDES program. Approval of this application would authorize state issuance of general permits, under specific circumstances, in lieu of individual NPDES permits. The application received from North Dakota is complete and is now available for inspection and copying. EPA requests public comments and will hold a public hearing if sufficient public interest exists.

DATE: EPA musr receive comments and requests for a public hearing on or before November 17, 1989.

ADDRESS: Address comments and requests for further information to Mr. Marshall Fischer, Water Management Division, Environmental Protection Agency, 999 18th Street, Suite 500, Denver, Colorado 80202-2405.

SUPPLEMENTARY INFORMATION: EPA regulations at 40 CFR 122.28 provide for the issuance of general permits to regulate discharges of waste water which result from substantially similar operations, are of the same type wastes, require the same effluent limitations, require similar monitoring, and are more appropriately controlled under general permits rather than by individual permits. State authority to issue general permits would significantly reduce the backlog of unissued NPDES permits and reduce the administrative burden and cost of issuing individual permits.

On June 13, 1975, North Dakota received authority to administer the NPDES program under section 402 of the Clean Water Act. Their program, as it currently exists, does not include provisions for the issuance of general permits. The State's final application for authority to issue general permits was received September 20, 1989. The submittal contains a letter from the State asking for approval, a copy of the Memorandum of Agreement (MOA), a supplementary NPDES program description, and copies of relevant State statutes and regulations. The submittal also includes a statement by the Attorney General certifying, with appropriate citations to the statutes and regulations, that the State has adequate legal authority to administer the general permits program.

After the close of the comment period, the EPA Regional Administrator, with concurrence of EPA Headquarters, will approve or disapprove this proposed modification to North Dakota's NPDES program. This decision will be based upon the contents of the submittal, all written comments received during the comment period and presented at the public hearing, if one is held, and upon meeting the requirements of 40 CFR part 123. If North Dakota's request is approved, the Regional Administrator will notify the State and notice will be published in the **Federal Register.** North Dakota's program will implement Federal law; however, each general permit will be subject to EPA review and approval as provided by 40 CFR 123.44(a)(2). Public notice and opportunity to request a hearing will also be provided for each general

permit. If the Regional Administrator disapproves the State's request for general permit authority, he will notify the State of the reasons for disapproval and of any revisions or modifications which are necessary to obtain approval.

The public may review North Dakota's application from 9 a.m. to 4 p.m., Monday through Friday, excluding holidays, at the Environmental Protection Agency, Region VIII, 999 18th Street, Denver, Colorado 80202–2405. Copies of the submission may also be obtained by contacting Ms. Daniela Thigpen at the Denver address listed or at (303) 293–1432.

Approval of the State's general permit program would establish no new substantive requirements, nor would it modify the regulatory control over any industrial category. Program approval would merely provide a simplified administrative process.

Kerrigan Clough,

Acting Regional Administrator, Region VIII.

[FR Doc. 89–24590 Filed 10–17–89; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Applications for Consolidated Proceeding

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant	City/State	File No.	MM Docket No.
A. W.B.A. Broadcasting Corp.	Dock Junction, GA.	BPH-87091 0MI.	89–458
B. Lorraine M. Wiggins.	Dock Junction, GA.	BPH-87091 0MJ.	
C. Dock Junction Radio Limited Partnership.	Dock Junction, GA.	BPH-87091 0ND.	
D. South Georgia Broadcasting.	Dock Junction, GA.	BPH-87091 0NQ.	
E. James P. McGahan.	Dock Junction, GA.	BPH-87091 0NR.	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applicants have been designated for a 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 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used to signify whether the issue in question applies to that particular applicant.

Issue heading	Applicants
1. See Appendix	C
2. See Appendix	C
3. See Appendix	C
4. Air Hazard	C
5. Comparative	A, B, C, D, E
6. Ultimate	A, B, C, D, E

3. If there is any non-standardized issue in this proceeding, the full text of the issue and the applicants to which it applies are set forth in the appendix to this notice. A copy of the complete HDO in this proceeding is available 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 Transcripton Services, Inc., 2100 M Street, NW. Washington, DC 20037 (Telephone No. (202) 857-3800).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Medic Bureau.

Appendix

1. To determine whether Sonrise Management Services, Inc. is an undisclosed party-in-interest to the application of DJRLP Broadcasting Partnership.

2. To determine whether DJRLP Broadcsting Partnership's organizational structure is a sham.

3. To determine, based on the evidence adduced pursuant to issues 1 and 2 above, whether DJRLP Broadcasting Partnership possesses the basic qualifications to be a Commission licensee.

[FR Doc. 89–24540 Filed 10–17–89; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARTIME 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 10220. 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.: 224–200009–001.

Title: Port of San Francisco Terminal Agreement.

Parties: City and County of San Francisco, Transportacion Maritime Mexicana, S.A. de C.V.

Synopsis: The Agreement provides for a "Bypass Container" wharfage rate for cargo delivered or received at the Port of San Francisco other than by vessels making a direct call. All other terms of the basic agreement remain unchanged.

By Order of the Federal Maritime Commission.

Dated: October 12, 1989.

Joseph C. Polking,

Secretary.

[FR Doc. 89–24519 Filed 10–17–89; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

George Gale Foster Corp., 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 Govenors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than November 9, 1989.

A. **Federal Reserve Bank of New York** (William L. Rutledge, Vice President) 33

Liberty Street, New York, New York 10045:

1. *George Gale Foster Corporation,* Poughkeepsie, New York; to beocme a bank holding company by acquiring 51 percent of the voting shares of Fishkill National Corporation, Beacon, New York, and thereby indirectly acquire Fishkill National Bank, Beacon, New York.

B. **Federal Reserve Bank of St. Louis** (Randall C. Summer, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Raymond Bancorp, Inc.,* Raymond, Illinois; to acquire 100 percent of the voting sares of Illini Bancshares, Inc., Girard, Illinois, and thereby indirectly acquire State Bank of Girard, Girard, Illinois.

C. **Federal Reserve Bank of Minneapolis** (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Bancommunity Service Corporation,* St. Peter, Minnesota; to acquire 100 percent of the voting shares of Security Shares, Inc., Mankato, Minnesota, and thereby indirectly acquire Security State Bank, Mankato, Minnesota.

2. **Dakota Bankshares, Inc.,** Fargo, North Dakota; to acquire at least 65 percent of the voting shares of Republic National Bancorp, Inc., Phoenix, Arizona, and thereby indirectly acquire Republic National Bank, Phoenix, Arizona.

Board of Governors of the Federal Reserve System, October 12,1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 80–24543 Filed 10–17–89; 8:45 am]

BILLING CODE 6210–01–M

Hillsboro Financial Corp.; Wichita, KS; Merger and Notice of Acquisition of Banks

This notice corrects a previous **Federal Register** notice (FR Doc. 89–23254) published at page 40738 of the issue for Tuesday, October 3, 1989.

Under the Federal Reserve Bank of Kansas City, the entry for Hillsboro Financial Corporation is amended to read as follows:

E. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Senior Vice President), 925 Grand Avenue, Kansas City, Missouri 64198.

2. *Hillsboro Financial Corporation,* Wichita, Kansas; to merge with Council Grove BancShares, Inc., Wichita, Kansas, and thereby indirectly acquire Council Grove National Bank, Council Grove, Kansas; Potwin Financial Corporation, Wichita, Kansas, and thereby indirectly acquire Potwin State Bank, Potwin, Kansas, and Potwin Insurance Agency, Inc., Potwin, Kansas, and engage indirectly in general insurance agency activities in a place that has a population not exceeding five thousand; K & B Producers, Inc., Wichita, Kansas, and thereby indirectly acquire Allen County Bank & Trust, Iola, Kansas; Eureka Financial Corporation, Wichita, Kansas, and thereby indirectly acquire Citizens National Bank, Eureka, Kansas; Toronto Financial Corporation, Wichita, Kansas, and thereby indirectly acquire First National Bank, Toronto, Kansas; and Moline Financial Corporation, Wichita, Kansas, and thereby indirectly acquire Exchange State Bank, Moline, Kansas. In connection with this application, Applicant also proposes to acquire 93.33 percent of the voting shares of Citizens State Bank, Moran, Kansas.

Board of Governors of the Federal Reserve System, October 12, 1989

William W. Wiles,

Secretary of the Board.

[FR Doc. 89–24546 Filed 10–17–89; 8:45 am]

BILLING CODE 6210–01–M

Joel E. Johnson, Jr.; Change in Bank Control; Acquisition of Shares of Banks or Bank Holding Companies

The notificant listed below has 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 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 November 1, 1989.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. Joel E. Johnson, Jr., Panama City, Florida; to acquire an additional 1.68 percent of the voting shares of Genala Banc, Inc., Geneva, Alabama, for a total of 16.78 percent as the result of a stock redemption, and thereby indirectly acquire Citizens Bank, Geneva, Alabama.

Board of Governors of the Federal Reserve System, October 12, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89–24545 Filed 10–17–89; 8:45 am]

BILLING CODE 6210–01–M

Society Corp.; Formation of, Acquisition by, or Merger of Bank Holding Companies; and Acquisition of Nonbanking Company

The company listed in this notice has applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed company has also applied under § 225.23(a)(2) of Regulation Y (12 CFR 225.23(a)(2)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies, or to engage in such an activity. Unless otherwise noted, these activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of

Governors not later than November 10, 1989.

A. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. Society Corporation, Cleveland, Ohio, to acquire 100 percent of the voting shares of Trustcorp, Inc., Toledo, Ohio, and its Ohio bank subsidiary, Trustcorp Bank, Ohio, Toledo, Ohio, and its second-tier Indiana subsidiaries: Trustcorp of Indiana, Inc., South Bend, Indiana; Trustcorp Bank Angola, N.A., Angola, Indiana; Trustcorp Bank, Columbus, N.A., Columbus, Indiana; Trustcorp Bank, Dunkirk, Dunkirk, Indiana; Trustcorp Bank, Goshen, Goshen, Indiana; Trustcorp Bank, Hartford City, Hartford City, Indiana; Trustcorp Bank, Huntington, N.A., Huntington, Indiana; Trustcorp Bank, Indianapolis, Indianapolis, Indiana; Trustcorp Bank, Knox, Knox, Indiana; Trustcorp Bank, South Bend, South Bend, Indiana, and its second-tier Michigan subsidiaries, Trustcorp of Michigan, Inc., Ann Arbor, Michigan; Trustcorp Bank, Winamac, Winamac, Michigan; Trustcorp Bank, Ann Arbor, Ann Arbor, Michigan; Trustcorp Bank, Lenawee, Adrian, Michigan; and Trustcorp Bank, Ypsilanti, Ypsilanti, Michigan. All subsidiaries will be 100 percent acquired, except for Trustcorp Bank, Hartford City, Hartford City, Indiana, which will be 96.3 percent acquired.

In connection with this application, Applicant also proposes to acquire SeaGate Appraisal Services, Inc., Toledo, Ohio, and thereby engage in performing real estate and personal property appraisals pursuant to § 225.25(b)(13); SeaGate Community Development Services, Inc., Toledo, Ohio, and thereby engage in community development activities pursuant to § 225.25(b)(6); St. Joseph Insurance Agency, Inc., Goshen, Indiana, and thereby engage in the sale of personal, commercial and casualty insurance pursuant to § 225.25(b)(8)(iv); Trustcorp Life Insurance Company, Goshen, Indiana, and thereby engage in credit reinsurance underwriting pursuant to § 225.25(b)(8); Trustcorp Mortgage Company, South Bend, Indiana, and thereby engage in originating, acquiring, and servicing mortgage loans pursuant to § 225.25(b)(1); and Trustcorp of Florida, N.A., Naples, Florida, and thereby engage in providing trust services in Florida pursuant to § 225.25(b)(3) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, October 12, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-24544 Filed 10-17-89; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 89N-0303]

International Drug Scheduling; Convention on Psychotropic Substances; Certain Benzodiazepine Drugs; Propylhexedrine

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; extension of comment period.

SUMMARY: The Food and Drug Administration (FDA) is extending to November 17, 1989, the closing date for submitting data and comments on the notification from the Secretary-General of the United Nations concerning abuse potential, actual abuse, medical usefulness, and trafficking of 34 various drug substances. The United Nations Division of Narcotic Drugs has indicated that four additional substances will also be part of the review.

DATES: Comments by November 17, 1989.

ADDRESSES: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Nicholas P. Reuter, Office of Health Affairs (HFY-20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1382.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of September 18, 1989 (54 FR 38441), FDA announced the receipt of a notification (Reference: NAR/CL.10/1989, DND 411/1(2) WHO/ECDD 27) from the Secretary-General of the United Nations on 34 drug substances. The 34 substances were being considered for review by the World Health Organization (WHO) for a possible change in their international control status under the Convention on Psychotropic Substances, 1971. Subsequent communications with the United Nations Division of Narcotic Drugs indicated that WHO would consider four additional substances as part of the review. The 38 substances are listed below.

A. Benzodiazepines

1. Alprazolam
2. Bromazepam
3. Camazepam
4. Chlordiazepoxide
5. Clobazam
6. Clonazepam
7. Clorazepate
8. Clotiazepate
9. Cloxazolam
10. Delorazepam
11. Diazepam
12. Estazolam
13. Ethyl loflazepate
14. Fludiazepam
15. Flunitrazepam
16. Flurazepam
17. Halazepam
18. Haloxazolam
19. Ketazolam
20. Loprazolam
21. Lorazepam
22. Lormetazepam
23. Medazepam
24. Nimetazepam
25. Nitrazepam
26. Nordazepam
27. Oxazepam
28. Oxazolam
29. Pinazepam
30. Prazepam
31. Temazepam
32. Tetrazepam
33. Triazolam

B. 34. Propylhexedrine

C. Additional Substances

35. Brotizolam
36. Etizolam
37. Midazolam
38. Quazepam

FDA announced the notification, in accordance with the Controlled Substances Act (21 U.S.C. 811 *et seq.*—title II of the Comprehensive Drug Abuse Prevention and Control Act of 1970), to provide opportunity for interested persons to submit comments to assist the Department of Health and Human Services (HHS) in preparing scientific and medical evaluations about the drug or substance. The Secretary of HHS will forward this information to WHO, through the Secretary of State, for WHO's consideation in preparing a report for presentation to a WHO review group, which will evaluate the need to modify the existing international control of these drugs.

The September 18, 1989, **Federal Register** notice announced that the period of submit comments and data on these substances would close on October 18, 1989. The Upjohn Co. has requested a 4-week extension to allow them to formulate a more extensive submission. In light of this request, and the fact that WHO will not convene its Expert Committee on Drug Dependence

to consider these substances until September 1990, FDA has agreed to extend the comment period until November 17, 1989.

Interested persons may, on or before November 17, 1989, submit to the Dockets Management Branch (address above) written comments regarding this action. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: October 12, 1989.

Alan L. Hoeting,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 89-24572 Filed 10-17-89; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Alaska Land Use Council; Meeting

AGENCY: Department of the Interior.

ACTION: Notice of meeting.

SUMMARY: As required by the Alaska National Interest Lands Conservation Act (ANILCA), Public Law 96-487, dated December 2, 1980, section 1201, paragraph (h), the Alaska Land Use Council will meet at 9:00 a.m., Thursday, November 2, 1989, at the Legislative Affairs Office, 3111 C Street, Anchorage, Alaska 99503.

The tentative agenda for the Council will include consideration and recommendations on:

—the ANILCA 1201(1) Report to Congress
—Wilderness Review Guide
—Nonrenewable Resources Report
—Revenue Producing Visitor Services
—Other items as may be appropriately considered by the Council.

Any individual desiring to appear before the Council to address any of the above matters or other matters of general concern to the Council should contact either Cochairman's office before the close of business Friday, October 27, 1989.

The public is invited to attend.

FOR FURTHER INFORMATION CONTACT:

Alaska Land Use Council, Office of the Federal Cochairman, 1689 C Street, Suite 100, Anchorage, Alaska 99501, (907) 272-3422, (FTS) 271-5485;

Alaska Land Use Council, Office of the State Cochairman Designee, P.O. Box AW, Juneau, Alaska 99811, (907) 465-3562.

or

2600 Denall Street, Suite 700, Anchorage, Alaska 99503, (907) 274-3528.

Dated: October 13, 1989.

John E. Schrote,

Deputy Assistant Secretary, Policy, Budget & Administration.

[FR Doc. 89-24601; Filed 10-17-89; 8:45 am]

BILLING CODE 4310-RK-M

Bureau of Indian Affairs

Amendment to the Notice of Intent of the preparation of an Environmental Impact Statement (EIS) for a Proposed Lease of 1,000 Acres of the Fort Mojave Indian Reservation, Nevada for a Mixed Residential, Commercial and Recreational Development Project to Include an Additional 1,218 Acres.

AGENCY: Bureau of Indian Affairs.

ACTION: Amendment of notice of intent and public scoping meeting.

SUMMARY: This notice advises the public that the Bureau intends to gather information necessary for the preparation of an Environmental Impact Statement (EIS) for the proposal to lease approximately 2,218 acres of the Fort Mojave Indian Reservation, for mixed residential, commercial and recreational deveopment projects in Clark County, Nevada and San Bernardino County, California. A public scoping meeting will be held to receive further input and questions from the public regarding this proposal and preparation of the EIS. This notice is being furnished as required by the National Environmental Policy Act (NEPA) Regulations (40 CFR 1401.7) to obtain suggestions and information from other agencies and the public on the scope of issues to be addressed in the EIS. Comments and participation in this scoping process are solicited. This notice amends the original Notice of Intent which was published December 29, 1988, (FR 52829). The original notice was for site A only as described in supplemental information below.

DATES: Written comments should be received on or before 11/7/89.

The scoping meeting to identify issues and alternatives to be evaluated in the EIS will be held on Monday October 23, 1989 at the Mojave High School, 1414 Handcock Road, Riviera, Arizona, Mohave County at 7:00 pm. Comments and participation in the scoping process are solicited and should be directed to the BIA at the address provided below or to Carter Associates, Inc., Attention: Ms. Karen E. Watkins, 5080 North 40th Street, Suite 300, Phoenix, Arizona, 85018.

Significant issues to be covered during the scoping process include biotic resources; archeological, cultural and historic sites; socioeconomic conditions; land use; air, visual and water quality; and resource use patterns.

ADDRESSES: Comments should be addressed to: Mr. Wilson Barber, Jr., Area Director, Bureau of Indian Affairs, Phoenix Area Office, P.O. Box 10, Phoenix, Arizona, 85001.

FOR FURTHER INFORMATION CONTACT: Ms. Amy L. Heuslein, Area Environmental Protection Specialist, Bureau of Indian Affairs, Phoenix Area Office, P.O. Box 10, Phoenix, Arizona, 85001, telephone (602) 241-2281 or FTS: 261-2281.

SUPPLEMENTARY INFORMATION: The Bureau of Indian Affairs, in cooperation with the Fort Mojave Indian Tribe, will prepare an Environmental Impact Statement (EIS) on two proposed lease sites located on the Fort Mojave Indian Reservation on the Nevada side of the Colorado River north of the junction of the Nevada, California and Arizona. The proposed lease Site A would include approximately 1,000 acres of mixed residential, commercial and recreational development. The current proposal for site A is divided into two phases of development. The first phase would include two hotels with approximately 500 rooms each, an artificial lake of approximately 75 acres, an 18-hole golf course, and approximately 25 acres of a Recreational Vehicle Park. The second phase of Site A would include a hotel with approximately 1,000 rooms and 2,400 residential units.

The proposed lease site B would include approximately 1,218 acres of mixed-use including residential, recreational, commercial and public uses. The current proposal for Site B is divided into four phases of development. The first pahse would include 1,024 residential units, improved natural open space, a marketing center and public service facilities. The second phase of Site B would include 1,800 residential units, expansion of the marketing center into a club house, expansion of the open space to incorporate an 18-hole golf course and commercial/office space. Phase three of site B would include 2,200 residential units, shcools, public use area (i.e., library, etc.), and additional commercial/office space. The fourth phase of Site B would include 1,812 residential units, commercial/office space and additional recreational amenities including an amphitheater.

The Fort Mojave Indian Tribe had identified this area as a future new townsite as early as 1955 and more

recently adopted land use plans which support this type of development.

This notice is published pursuant to Section 1501.7 of the Council on Environmental Quality regulations (40 CFR Parts 1500 through 1508) implementing the procedural requirements of the National Enviromental Policy Act of 1969, as amended (42 U.S.C. 4347 *et. seq.*), Department of the Interior Manual (516 DM 1–6) and is in the exercise of authority delegated by the Secretary of the Interior to the Deputy Assistant of the Secretary—Indian Affairs by 209 DM 8.

Dated: October 13, 1989.

Patrick A. Hayes,

Acting Assistant Secretary—Indian Affairs.

[FR Doc. 89–24594 Filed 10–17–89; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

[NV-030-90-4333-11-24-10]

Temporary Closure of Public Lands; Carson and Douglas Counties, NV

AGENCY: Bureau of Land Management, Interior.

ACTION: Temporary Closure of Selected Public Lands in Carson and Douglas Counties of Nevada During the 1989 Sports Car Club of America (SCCA) Mason Valley Rally.

SUMMARY: The Carson City District Manager announces the temporary closure of selected public lands under his administration. This action is being taken to provide for public safety during the official running of the 1989 SCCA Mason Valley Rally, Gardnerville, Nevada.

EFFECTIVE DATES: October 21 and 22, 1989.

FOR FURTHER INFORMATION CONTACT: Tom Abbett, Outdoor Recreation Planner, Carson City District, 1535 Hot Springs Road, Suite 300, Carson City, Nevada 89706.

SUPPLEMENTARY INFORMATION: Specific restrictions and closure information are as follows:

1. The event is located on existing roads in the Pine Nut Mountains near Carson City, NV, within T. 14, N., R. 20 E; T. 15, N., R. 20 E; T. 14, N., R. 21 E; T. 15, N., R. 21 E. A map can be obtained from Tom Abbett at the contact address. The event permittee is required to mark and monitor the race course during this closure period. Included in this closure are the Brunswick Canyon and Sand Canyon Roads.

2. Between 4:00 P.M., Saturday, October 21, 1989, and 5:00 A.M., Sunday, October 22, 1989, the 18 miles of competitive race stage, and public lands within ¼ mile of either side, are closed to the public except at designated spectator areas.

3. Areas designated for viewing the event are limited to the start and finish areas of the Sand Canyon and Brunswick Canyon race stages. All public spectator vehicles operating within these designated areas shall maintain a maximum speed of 10 MPH. Spectators shall remain in safe locations as directed by event officials or BLM personnel.

The above restrictions do not apply to emergency or law enforcement personnel, event officials, or BLM personnel involved in monitoring the event.

Authority for closure of public lands is found in 43 CFR part 8340, subpart 8341; 43 CFR part 8360, subpart 8364.1, and 43 CFR part 8372. Persons who violate this closure order are subject to arrest and, upon conviction, may be fined not more than $1,000 and/or imprisoned for not more than 12 months.

James W. Elliott,

District Manager.

[FR Doc. 89–24561 Filed 10–17–89; 8:45 am]

BILLING CODE 4310-HC-M

[OR-943-00-4214-11; GPO-015; WASH-01619, WASH-01935, OR-1374 (WASH)]

Proposed Continuation of Withdrawals, WA

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The U.S. Department of Agriculture, Forest Service, proposed that all or portions of three separate land withdrawals continue for an additional 20 years and requests that the lands involved remain closed to mining and, where closed, opened to surface entry.

FOR FURTHER INFORMATION CONTACT: Champ Vaughan, BLM Oregon State Office, P.O. Box 2965, Portland, Oregon 97208, 503–231–6905.

The Forest Service proposes that the following identified land withdrawals be continued for a period of 20 years pursuant to Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714. The following described lands and projects are involved:

Colville National Forest

1. WASH–01619, Public Land Order No. 1874 dated June 9, 1959.
   Pierre Lakes Recreation Area, 134. 90 acres. Located in Stevens County, 17 miles west of Northport. T. 39 N., R. 37 E., W.M., Sec. 5.
   Summit Lake Recreation Area, 27.50 acres.
   Located in Stevens County, 16 miles west of Northport. T. 40 N., R. 37 E., W.M., Secs. 17, 20, and 21.
   Swan Lake Recreation Area, 88.77 acres.
   Located in Ferry County, 12 miles southwest of Republic. T. 35 N., R. 32 E., W.M., Secs. 20 and 29.
   Ferry Lake Recreation Area, 52.90 acres.
   Located in Ferry County, 12 miles southwest of Republic. T. 35 N., R. 32 E., W.M., Sec. 28.
   Long Lake-Fish Lake Recreation Area, 51.10 acres.
   Located in Ferry County, 12 miles southwest of Republic. T. 35 N., R. 32 E., W.M., Sec. 28.
   Ten Mile Campground, 29.29 acres.
   Located in Ferry County, 12 miles southwest of Republic. T. 35 N., R. 32 E., W.M., Sec. 24. T. 35 N., R. 33 E., W.M., Sec. 19.
   Lake Ellen Recreation Area, 153.50 acres.
   Located in Ferry County, 14 miles southwest of Kettle Falls. T. 35 N., R. 36 E., W.M., Secs. 26, 27, 33, and 34.
   Trout Lake Recreation Area, 80 acres.
   Located in Ferry County, 9 miles west of Kettle Falls. T. 36 N., R. 36 E., W.M., Secs. 11, 12, 13, and 14.
   Davis Lake Recreation Area, 41.76 acres.
   Located in Ferry County, 12 miles northwest of Kettle Falls. T. 38 N., R. 36 E., W.M., Sec. 34.
   Lake Thomas and Gillette Recreation Area, 121.70 acres.
   Located in Ferry County, 20 miles northeast of Colville. T. 36 N., R. 42 E., 42 E., W.M., Secs. 17 and 20.
   Little Twin Lakes Recreation Area, 121.17 acres.
   Located in Stevens County, 12 miles east of Colville. T. 35 N., R. 41 E., W.M., Sec. 4. T. 36 N., R. 41 E., W.M., Sec. 33.

2. WASH–01935, Public Land Order No. 1375 dated December 20, 1956.
   Pierre Lake Recreation Area, 27.25 acres.
   Located in Stevens County, 17 miles west of Northport. T. 39 N., R. 37 E., W.M., Sec. 5.
   Sullivan Lake Reservoir (Millpond) Site, 80 acres.
   Located in Pend Oreille County, 4 miles east of Metaline. T. 39 N., R. 43 E., W.M., Sec. 25. T. 39 N., R. 44 E., W.M., Sec. 30.
   Sullivan Mountain Lookout Administrative Site, 10 acres.
   Located in Pend Oreille County, 7 miles east of Metaline. T. 39 N., R. 44 E., W.M., Sec. 16.
   Lake Leo Recreation Area, 19.85 acres.
   Located in Pend Oreille County, 15 miles south of Metaline. T. 36 N., R. 42 E., W.M., Sec. 3.

3. OR–1374(WASH), Public Land Order No. 4362 dated February 12, 1968.

Canyon Creek Recreation Area, 40 acres.

Located in Ferry County, 8 miles southwest of Kettle Falls. T. 36 N., R. 36 E., W.M., Sec. 35.

Frater Lake Recreation Area, 38.85 acres..

Located in Pend Oreille County, 15 miles south of Metaline. T. 36 N., R. 42 E., W.M., Sec. 3.

The withdrawals currently segregate the lands from operation of the mining laws, but not the mineral leasing laws, and some of the lands are closed to operation of the publicf land laws generally. The Forest Service requests no changes in the purpose or segregative effect of the withdrawals except that the lands be opened to operation of the public land laws generally where they are presently closed.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal continuations may present their views in writing to be the undersigned officer at the address specified above.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. A report will also be prepared for consideration by the Secretary of the Interior, the President and Congress, who will determine whether or not the withdrawals will be continued and if so, for how long. The final determination on the continuation of the withdrawals will be published in the **Federal Register**. The existing withdrawals will continue until such final determination is made.

Dated: October 6, 1989.

Robert E. Mollohan,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 89–24563 Filed 10–17–89; 8:45 am]

BILLING CODE 4310–33–M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB–55 (Sub-No. 322X)]

CSX Transportation, Inc.; Abandonment Exemption of Railroad Line in Montgomery County, OH

Applicant has filed a notice of exemption under 49 CFR 1152 subpart F—Exempt Abandonments to abandon its 1.18-mile line of railroad between mileposts 1.66 and 2.84, at Dayton, Montgomery County, OH.

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 service 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 days 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 November 17, 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 October 30, 1989.[3] Petitions for reconsideration and requests for public use conditions under 49 CFR 1152.28 must be filed by November 7, 1989, with:

Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petiton filed with the Commission should be sent to applicant's representative:

Patricia Vail, CSX Transportation, Inc., 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 October 23, 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, 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: October 12, 1989.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 89–24576 Filed 10–17–89; 8:45 am]

BILLING CODE 7035–01–M

[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, 5 I.C.C.2d 377 (1989). 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).

[3] The Commission will accept a late-filed trail use statement so long as it retains jurisdiction to do so.

[Docket No. AB–319X]

Florida Central Railroad Co., Inc.; Abandonment Exemption of Railroad Line in Orange County, FL

Applicant has filed a notice of exemption under 49 CFR part 1152 subpart F—Exempt Abandonments to abandon its 0.9-mile line of railroad between mileposts F–0.0 and F–0.9, near Forest City, Orange 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 service 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 days 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 November 17, 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 October 30, 1989.[3] Petitions for reconsideration and requests for public use conditions under 49 CFR 1152.28 must be filed by November 7, 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 the applicant's representative:

Robert L. Calhoun, Sullivan & Worcester, Suite 806, 1025 Connecticut Avenue, NW., Washington, DC 20036.

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 October 23, 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, 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: October 12, 1989.

[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, 5 I.C.C.2d 377 (1989). 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).

[3] The Commission will accept a late-filed trail use statement so long as it retains jurisdiction to do so.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 89–24575 Filed 10–17–89; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 31514]

Indiana Hi-Rail Corp.; Lease and Operation Exemption From Norfolk and Western Railway Co. Rail and Rail-Related Property Between Liberty Center, OH and Woodburn, IN

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption for a lease and operation.

SUMMARY: The Interstate Commerce Commission exempts: (1) From the prior approval requirements of 49 U.S.C. 11343, *et seq.*, the lease by Indiana Hi-Rail Corporation from Norfolk and Western Railway Company of 51 miles of rail and rail-related property between Liberty Center, OH and Woodburn, IN, subject to standard labor protective conditions; and (2) from the provisions of 49 U.S.C. 10761, 10762 and 11145 Indiana Hi-Rail Corporation's operations over the same lines described in (1) above.

DATES: These exemptions are effective on October 21, 1989. Petitions for reconsideration must be filed by November 7, 1989.

ADDRESSES: Send pleadings referring to Finance Docket No. 31514 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

(2) Petitioners' representative: John D. Heffner, Gerst, Heffner, Carpenter & Podgorsky, Suite 1107, 1700 K Street, NW., Washington, DC 20006.

Robert J. Cooney, Senior General Attorney, Law Department, Norfolk Southern Corporation, Three Commercial Place, Norfolk, VA 23510–2191.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275–7245. [TDD for hearing impaired: (202) 275–1721].

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone: (202) 289–4357/4359. (Assistance for the hearing impaired is available through TDD services (202) 275–1721.)

Decided: October 13, 1989.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Andre, Lamboley, and Phillips. Commissioner Lamboley dissented in part with a separate expression. Vice Chairman Simmons would not have granted the exemption from tariff filing and reporting requirements.

Noreta R. McGee,

Secretary.

[FR Doc. 89–24602 Filed 10–17–89; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

National Institute of Corrections

Advisory Board Meeting

Time and Date: 8:00 a.m., Monday, November 6, 1989.

Place: Horton Grand Hotel, Three-eleven Island Avenue San Diego, California, 92101.

Status: Open.

Matters to be Considered: NIC Advisory Board Recommendations for Fiscal Year 1991; NAC Project Relocation Update; Prison Administrators Training Model Briefing; NASA Project Briefing; Briefing on Interagency Memoranda and Agreements; Review of Planning Meeting of Non-Judicial and Quasi-Judicial Means/Processes to Address Unconstitutional Conditions in Prisons and Jails; and SJI/NIC Project on Intermediate Sanctions Briefing.

Contract Person for More Information: Larry Solomon, Acting Director (202) 724–3106.

Larry Solomon,

Acting Director.

[FR Doc. 89–24565 10–17–89; 8:45 am]

BILLING CODE 4410–36–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

Advisory Council on Employee Welfare and Pension Benefits Plans; Meeting

Pursuant to section 512 of the Employee Retirement Income Security Act of 1974 (ERISA) 29 U.S.C. 1142, a meeting of the Advisory Council on Employee Welfare and Pension Benefits Plans will be held on Wednesday, November 8, 1989, in Suite N–3437, U.S. Department of Labor Building, Third and Constitution Avenue, NW. Washington, DC.

The purpose of the November 8 meeting, which will begin at 9:30 a.m., is to consider items listed below and to

invite public comment on any aspect of the administration of ERISA.

1. Asssistant Secretary's Report: (a) PWBA update, (b) Miscellaneous Issues.
2. General Business of the Advisory Council.
3. Report of the Enforcement Work Group.
4. Report of the Access To Health Care Work Group.
5. Report of the National Retirement Income Policy Work Group.
6. Report of the Pension Portability Work Group.
7. Statements from the General Public.

Members of the public are ecouraged to file a written statement pertaining to any topic concerning ERISA by submitting 20 copies on or before November 3, 1989, to William E. Morrow, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Suite N–5677, 200 Constitution Avenue, NW. Washington, DC 20210. Individuals wishing to address the Advisory Council should forward their request to the Executive Secretary or telephone (202) 523–8753. Oral presentations will be limited to ten minutes, but an extended statement may be submitted for the record.

Organizations or individuals may also submit statements for the record without testifying. Twenty (20) copies of such statements should be sent to the Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before November 3, 1989.

Signed at Washington, DC, this 13 day of October, 1989.

Ann L. Combs,

Deputy Assistant Secretary for Policy Pension and Welfare Benefits Administration.

[FR Doc. 89–24593 Filed 10–17–89; 8:45 am]

BILLING CODE 4510–29–M

NATIONAL SCIENCE FOUNDATION

Engineering Education Coalitions; Program Solicitation Announcement

Engineering Education Coalitions is a targeted program solicitation of the *Undergraduate Curriculum Development in Engineering* program, as previously described in NSF 88–84, and is part of NSF's evolving long range plan to strengthen undergraduate education in engineering, mathematics, and the sciences in the United States. This program is managed by the Division of Undergraduate Science, Engineering, and Mathematics Education, Directorate and Science and Engineering Education in collaboration with the Office for Engineering Infrastructure Development, Directorate for Engineering. The text of the program solicitation is presented below. Copies of the complete program solicitation (NSF 89–107) with appendices and forms will be available soon from the Forms and Publications Unit, Room 232, National Science Foundation, 1800 G Street NW., Washington, DC 20550, (202) 357–7668.

Text of the Program Solicitation

Undergraduate Curriculum Development in Engineering—Engineering Education Coalitions

Objectives

The principal objective of the Engineering Education Coalitions initiative is to support a small number of major coalitions of U.S. institutions in a multi-year effort to:

*Increase dramatically the quality of U.S. undergraduate engineering education as well as the number of engineering baccalaureate degrees awarded, especially to women and underrepresented minorities.

*Design, implement, evaluate, and disseminate new structures and fresh approaches affecting all aspects of U.S. undergraduate engineering education, including both curriculum content and significant new instructional delivery systems.

*Create significant intellectual exchange and substantive resource linkages among major U.S. engineering baccalaureate-producing institutions and other major and smaller institutions.

This year NSF anticipates having funds to support three Engineering Education Coalitions with each Coalition supported at the level of about $2 to $3 million per year for up to 5 years.

Rationale

The U.S. engineering education enterprise is facing serious challenges. These challenges have been studied in depth by the National Science Board Task Committee on Undergraduate Science, Mathematics and Engineering Education, the National Congress on Engineering Education, the Engineering Dean's Council of the American Society for Engineering Education, a Task Force of the American Society of Engineering Education, and several NSF Disciplinary Workshops on Undergraduate Education, among others (see Selected Bibiography). Among the most pressing challenges today are the following.

A major shortfall of engineers at all levels is projected by the end of the next decade. This shortfall is based on several factors, among them is a significant decline in the number of 18-year-olds in the United States, a continuing decline in Freshman interest in engineering careers, a low and declining enrollment in engineering programs by women and underrepresented minorities, a substantial increase in the number of faculty retirements, and inadequate enrollments in graduate programs by U.S. students.

Undergraduate engineering education is in need of comprehensive restructuring. There is considerable evidence that the undergraduate engineering learning experience is in need of major renovation to recast an overburdened and compartmentalized curriculum, to prepare graduates better for careers in engineering in the next century, to integrate the teaching and research missions in academic institutions more completely, to improve the scientific and technological literacy of all students, to encourage and support faculty efforts in both scholarship and undergraduate teaching, to develop a new learning environment, and to utilize better information and communications technology.

The engineering education system needs more integration and coordination. The engineering community needs to develop a systems perspective of the role of engineering education in the larger U.S. educational system, including the need for better preparation and understanding of careers in engineering for precollege students, the need to improve important links in undergraduate engineering education, both at the precollege to college transition and at the 2-year college to 4-year institution interface, the need to encourage more qualified U.S. students to pursue graduate studies and faculty careers, and the need to prepare students for life-long learning.

These challenges are beyond the capabilities and resources of any single discipline, department, college or institution. They require a comprehensive and coordinated approach involving significant inter-institutional collaboration. it is to this end that the Engineering Education Coalitions initiative seeks to support coalitions of U.S. educational institutions to introduce fresh approaches and comprehensive changes in U.S. undergraduates engineering education.

Features of the Engineering Education Coalitions

It is important for the well-being of the U.S. undergraduate engineering education enterprise that efforts under this solicitation preserve the diversity of constituencies and approaches to

engineering education. While each Coalition may be unique in some respects, each Coalition should exhibit the following key features.

A proposed Coalition of institutions should have awarded collectively at least 2,000 undergraduate engineering degrees annually to U.S. citizens and permanent residents, including 300 degrees to minorities who are underrepresented in engineering and 600 degrees to women, based on a yearly average for the three calendar years 1987–1989. (For the purposes of this program, underrepresented minorities in engineering are Blacks, Native Americans, Mexican Americans, Puerto Ricans, Alaskan Natives, and Native Pacific Islanders.)

It is expected that proposed Coalitions will vary in size and exhibit diverse forms of organization, participation, and operation. The size, structure, and operation of a Coalition will depend on the focus and objectives to be accomplished. Although no single type of Coalition, or its focus, is prescribed, this feature is intended to encourage the formation of Coalitions that have the potential for a major impact on U.S. undergraduate engineering education. In the formation of Coalitions, consideration should be given to inclusion of major doctoral universities, primarily undergraduate institutions, minority institutions, and two-year colleges, among others. Each Coalition is expected to work collaboratively to increase the number of engineering baccalaureates, especially to women and underrepresented minorities.

A Coalition should have a clear vision and well-formulated plans for comprehensive restructuring and reshaping of the undergraduate engineering learning experience involving the breadth of engineering and all levels of undergraduate engineering education.

There is strong evidence (see, for example, the Selected Bibliography) of the need for a major restructuring and reshaping of undergraduate engineering education. There is a need to integrate the commonality in principles among different disciplines, to improve the students' skills in problem definition and communication, and to improve the effectiveness and quality of the interaction between the students and faculty. There is also a need to develop new learning environments that utilize effectively new communication and information technologies, and to heighten the role of laboratory instruction, experimentation and design. In general, there is a need to produce engineers who are more informed about the technological, environmental, global and social factors involved in engineering practice.

A Coalition should be an agent of active inter-institutional collaboration with significant intellectual exchange and resource linkages.

Many of the critical challenges facing engineering education are beyond the capabilities and resources of an individual institution. Thus, an objective of this solicitation is to promote significant collaboration among participating institutions. Collaboration among Coalition institutions may include visiting faculty appointments, inter-institutional academic programs for students, cooperative curriculum development, inter-institutional instruction via networking of communications and information technologies, and linking of appropriate institutional programs.

The Coalition institutions should contribute significant and tangible resources that reflect the unique interests and capabilities of the institutions.

A quality engineering education program today requires considerable resources, not only in terms of faculty, staff, laboratories, equipment and, often, special facilities, but also the institutional resolve to maintain its currency and relevancy to engineering practice in an environment of rapid technological change. The long-term success of a Coalition is likely to rest largely on the resolve and tangible commitments of the participating institutions to develop a strong infrastructure on which to continue to build after the completion of the project.

There should be well-developed plans for integrating the proposed activities into the academic programs of the Coalition institutions within the period of the award.

The challenges facing engineering education are serious and pressing. This solicitation is intended to address these challenges now and to have a major impact on U.S. engineering education within the near future. The solicitation will support activities to plan and design innovations in engineering education, and to experiment with such innovations. However, a principal objective of this solicitation is to implement and integrate the educational innovations into the Coalition institutions' academic programs within the period of the award.

The Coalition should be comprised primarily of baccalaureate-producing institutions with activities that exhibit a broad perspective of the engineering education system.

Although a principal focus of this solicitation is to strengthen U.S. undergraduate engineering education in our Nation's institutions of higher education, each Coalition should have activities that exhibit a systems perspective of the engineering education pipeline including the importance of precollege preparation, the transition to college, the 2-year college and 4-year institution interface, the graduate/industry interface, and life-long learning. Coalitions are encouraged to include, as appropriate, the substantive involvement of industry and other education or professional organizations.

Deadlines

Letters: February 16, 1990

To faciliate preparations for proposal processing and review, the Foundation requests that persons planning to submit a proposal to this program indicate their intentions by sending a letter to the Division of Undergraduate Science, Engineering and Mathematics Education (USEME), Attn: Engineering Education Coalitions, Room 639, National Science Foundation, 1800 G St. NW., Washington, DC 20550. This letter should be received by February 16, 1990. The letter may also be sent via FAX: (202) 357–7009 or by electronic mail: Bitnet: undergrad@nsf; Arpanet, CSnet: undergrad@note.nsf.gov. The letter should not exceed 3 pages and it should contain a concise summary of the vision, scope, and duration, and a list of the participating institutions. This letter is not required for submission of a proposal, it will not be considered by NSF as a binding commitment of the institutions comprising the Coalition, and it will not be considered in the proposal evaluation process.

Proposals: April 16, 1990

Proposals must be received by the Proposal Processing Unit, room 223, National Science Foundation, 1800 G St. NW., Washington, DC 20550, by 5:00 p.m., April 16, 1990.

Institutional Commitment

Institutional commitments are expected to provide matching support in an amount equal to or greater than the funds to be provided by the NSF. The matching funds may be provided by the institutions participating in the proposal, by industry or other sources, or by a combination of the institutions and industry and other non-Federal sources.

Equipment requests must provide matching support in amounts equal to or greater than requested of NSF.

Proposal Review, Awards, and Oversight

Review

Proposals will be evaluated in several stages of review. This may include mail and/or panel review, site visits, and NSF staff and National Science Board reviews. Proposals may be declined at any point in the review process. (The evaluation and processing of proposals will require approximately six months.)

Awards

Support may be requested for a period of up to 5 years. For this program, it is important to note that an institution can be a member of only one coalition proposal.

Although the number of awards for FY 1990 will depend on the quality of the proposals received and on the availability of funds for this solicitation, NSF anticipates funding 3 Coalitions with each Coalition supported at the level of about $2 to $3 million per year for up to five years. Additional coalitions are expected to be awarded for the next several years.

Oversight

Grants awarded as a result of this announcement will be administered in accordance with the terms and conditions of NSF GC–1, "Grant General Conditions," or FDP–II, "Federal Demonstration Project General Terms and Conditions," depending on the grantee organization. Copies of these documents are available at no cost from the NSF Forms and Publications Unit, telephone (202) 357–7668, or via e-mail (Bitnet:pubs@nsf or Internet: pubs@note.nsf.gov). More comprehensive information is contained in the NSF Grant Policy Manual (July 1989) for sale through the Superintendent of Documents, Government Printing Office, Washington, DC 20402.

If the submitting institution has never received an NSF award, it is recommended that appropriate administrative officials become familiar with the policies and procedures in the NSF Grant Policy Manual which are applicable to most NSF awards. If a proposal is recommended for an award, the NSF Division of Grants and Contracts will request certain organizational, management, and financial information. These requirements are described in chapter III of the NSF Grant Policy Manual.

The progress of each Coalition will be assessed periodically. In general, oversight and monitoring of each Coalition is coordinated by NSF through Program Director's visits, submission of annual reports, and site visits. Special evaluations of the Coalition may also be conducted as deemed appropriate and necessary by NSF.

Upon the completion of the project a Final Project Report (NSF Form 98A), including the Part IV Summary, will be required. Applicants should review this form prior to proposal submission so that appropriate tracking mechanism are included in the proposal plan to ensure that complete information will be available at the conclusion of the project.

Who May Submit

Proposals are invited from coalitions comprised primarily of institutions and organizations offering baccalaureate engineering programs, or engineering-related undergraduate programs, including major doctoral universities, primarily undergraduate institutions, minority institutions, and two-year colleges, among others. A Coalition should have awarded collectively at least 2,000 undergraduate engineering degrees annually to U.S. citizens and permanent residents, including 300 degrees to minorities who are underrepresented in engineering and 600 degrees to women, based on a yearly average for the three calendar years 1987-1989.

Proposal Preparation and Format

Proposals submitted in response to this program solicitation should be prepared in accordance with the guidelines provided in the NSF brochure, Grants for Research and Education in Science and Engineering (NSF 83–57, rev. 8/89), except as modified or elaborated by this solicitation. Single copies of this brochure are available at no cost from the NSF Forms and Publications Unit, telephone (202) 357–7668, or via e-mail (Bitnet:pubs@nsf or Internet: pubs@note.nsf.gov).

A proposal should describe the unique combination of the Coalition's interests, resources and capabilities and should present the vision, goals, plans, and anticipated results of the proposed Coalition in sufficient detail to be evaluated in accordance with the criteria listed in this solicitation. The proposal should contain only material essential for the review. A lengthy proposal is not encouraged. Copies of the proposal should be securely fastened together. They should not be in ring binders or held together with elastic bands. The proposal should contain the following information and be assembled in the corresponding order. All of the forms identified below are provided at the back of this solicitation and they can also be found in Grants for Research and Education in Science and Engineering (NSF 83–57, rev. 3/89).

1. Cover Page

NSF Form 1207.

2. Table of Contents.

3. Executive Summary

In lieu of the usual 200-word Project Summary, an Executive Summary of no more than two (2) pages should be provided. It should be a succinct description of the vision, goals, structure, plans, programs, and special features of the proposed coalition. Because this summary may ultimately be used to inform the public about the Foundation's programs, it should be written so that a technologically literate layperson could understand the use of Federal funds in support of the project.

4. Results From Prior NSF Support

For the Project Director/Principal Investigator as described in GRESE.

5. Project Description

Up to fifteen (15) single-spaced pages (or 30 double-spaced pages) of 12 point type or larger will be accepted. In developing the project description, attention should be given to the areas outlined below. This information, and any other information relevant to the project, should be presented in sufficient detail to allow assessment of the merit of the proposed activities and the necessity for a coalition mode of operation. The anticipated results of the proposed project should be integrated into the institutions' academic programs within the budget period of the award and they should be of interest and use to wide segments of the undergraduate engineering education community outside the Coalition.

Strategic Plans, Goals and Results. Articulate the overall vision and goals of the Coalition, describe the strategic plans and the anticipated results, and especially the expected impact of the Coalition's activities on U.S. undergraduate engineering education. Justify the choice of institutions comprising the Coalition as they relate to the objectives of this initiative.

Comprehensive Restructuring. Discuss the plans for the project and the effect of the anticipated results on the undergraduate engineering learning experience. These plans should view engineering as a whole and not just a few disciplines and they should outline activities of high quality and creativity. Proposers are strongly encouraged to consult the references listed in the Selected Bibliography. NSF will support activities such as planning and designing innvoation in engineering education, experimenting with the implementation of such innovations, assessing and evaluating outcomes, and disseminating the results to other educators. Indicate how the changes proposed prepare undergraduates better for careers in engineering in the next century. Describe the plans for integrating the innovations into the institutions' academic programs within the period of the award. Describe the mechanisms for the dissemination of the results of the Coalition activities to non-Coalition institutions both during and after the project. Describe the plans for attracting and retaining qualified students and for increasing the participation of women and underrepresented minorities.

Inter-Institutional Linkages. Identify the inter-institutional linkages and mechanisms for collaboration. These linkages should involve significant intellectual exchange as well as

resource commitments (e.g., funds, facilities, and people).

Management Plan. Provide a clear description of the organizational structure of the Coalition, including the mechanisms for focusing the coalition activities, allocating funds and equipment, and managing the project team and other affected faculty and participants.

Summary of Baccalaureate Degrees. Provide a tabular summary of the undergraduate engineering degrees awarded by each institution in the Coalition each year for the three calendar years of 1987–89. The summary should indicate gender, ethnic origin, and nationality. A coalition should have awarded collectively at least 2,000 undergraduate engineering degrees annually to U.S. citizens and permanent residents, including 300 degrees to underrepresented minorities and 600 degrees to women, based on a yearly average for the three calendar years 1987–1989.

6. Bibliography.

7. Biographical Sketches

Provide no more than a two page biographical sketch for each senior personnel listed in section A. Senior Personnel on the Summary Proposal Budget Forms except those included in line A.5. *Others.* In accordance with Important Notice No. 107 (9/89), biographical sketches, in addition to data on educational background and career, must now include the following information:

—A list of up to five publications most relevant to the work proposed and up to five other significant publications. Patents, copyrights, or software systems developed may be substituted for publications. These publications may overlap the continuing requirement for a list of all publications resulting from and citing prior NSF support. A complete list of publications for the past five years is no longer required. Only the list of the ten will be used in merit review.

—A list of the names of graduate students with whom the PI has had an association as thesis advisor and postdoctoral scholars sponsored by the PI over the past five years, with a summary of the total numbers of graduate students advised and postdoctoral scholars sponsored.

—To avoid potential conflicts of interest in merit review, a list of scientists with whom the investigator has had a long-term association and/or with whom he/she has collaborated on a project or a book, article, report or paper within the last 48 months; and the investigator's own graduate and postdoctoral advisors. For senior personnel included in line A.5. of the Summary Proposal Budget Forms, provide a list comprised of their name, title, department, and institutional affiliation.

8. Budget

NSF anticipates that the majority of the costs for the Coalition's activities will be for personnel time and personnel-related costs, including modest amounts of materials, supplies, equipment, computing services, etc. It is expected that the institutions will have the major computing facilities, equipment, and physical environment to achieve the goals of the project, and therefore NSF does not anticipate providing major equipment and facilities support. Because the results of the project are expected to be integrated into the academic programs of the institutions within the period of the award, it is expected that the budgets will reflect the assumption of responsibility by the participating institutions as the educational innovations are fully implemented.

Eligible Costs. In developing the budget, include only items that represent new costs. NSF funds may not be used to support expenditures that would have been undertaken in the absence of an award, such as the costs for normal teaching activities and normal curriculum development. Equipment costs must be matched with non-Federal funds equal to or greater than the funds requested from NSF.

Forms and Documentation. NSF Form(s) 1030. The "Budget Explanation Pages," described on the reverse of Form 1030, should: (1) provide detail supporting the funds requested from NSF as identified on Form(s) 1030, and (2) provide a summary of the expenditures for the project as a whole—that is, for the combined total of requested NSF funds and institutional commitments.

9. Current and Pending Support

NSF Form(s) 1239.

10. Appendices.

I. Facilities and Equipment. Include a description of no more than three pages of the relevant and related facilities, plans for purchase of and justification for major items of equipment, and plans for new or renovated space.

II. Letters of Commitment. Official letters only that verify specific institutional and other resource commitments.

III. Other Appendices. Other appendices provided should be relevant and concise.

Materials Required

1. Fifteen (15) copies of the proposal.

2. One (1) copy of the NSF Form 1225 attached to the copy of the proposal bearing original signatures. Do not include the form within the body of the proposal, since this would compromise the confidentiality of the information. WHILE PROVIDING THE INFORMATION REQUESTED IS VOLUNTARY, SUBMITTING THIS FORM IS REQUIRED BY NSF. OMISSION OF THIS FORM WILL CAUSE CONSIDERABLE DELAY IN PROCESSING THE PROPOSAL.

3. Two (2) sets of the following extra forms with each set of forms stapled as a unit.

a. One copy of the Cover Sheet
b. One copy of the Executive Summary.
c. One copy of the Budget, including explanation pages.

These materials should be submitted to: Proposal Processing Unit, room 223, Attn: Engineering Education Coalitions, National Science Foundation, 1800 G Street, NW., Washington, DC 20550.

Evaluation Criteria

Proposals will be evaluated in accordance with Foundation procedures and the criteria described in *Grants for Research and Education in Science and Engineering.* These criteria address:

- Intrinsic merit of the proposed project;
- Capability of the investigator(s) and the adequacy of the institutional resources to carry out the proposed work;
- Expected impact of the proposed project;
- Utility or relevance of the proposed project.

In addition, a proposal should exhibit evidence of the project's potential to contribute to the national effort to strengthen U.S. undergraduate engineering education, including the following as appropriate to the criteria above to which they relate. The proposal should:

- Propose activities of high quality and creativity that address major challenges facing U.S. undergraduate engineering education and that have the potential for a major impact on U.S. undergraduate engineering education within the period of the project.
- Present well-developed plans for comprehensive restructuring and reshaping of the undergraduate engineering learning experience involving the breadth of engineering and all levels of undergraduate engineering education.

• Propose plans for attracting and retaining qualified U.S. students in undergraduate engineering education, especially the increased participation of women and underrepresented groups, that recognize the breadth of the engineering education pipeline and the role of undergraduate engineering education within it.

• Provide plans to integrate the results of the project's activities into the academic programs of the Coalition institutions within the period of the project.

• Present evidence that the infrastructure created will support continued growth and development of undergraduate engineering education after completion of the project.

• Describe appropriate mechanisms to evaluate the project efforts as the project progresses and upon its completion, that is, describe plans to determine the 'value-added' as a consequence of the project's activities.

• Present significant mechanisms for disseminating the results of the project with engineering educators and students at institutions outside the Coalition, both during the period of the project and upon its completion.

• Propose a Coalition structure to promote active intra- and inter-institutional collaboration with significant intellectual and resource linkages among the participating institutions.

• Provide clear evidence of institutional resolve to support the project through tangible resource commitments.

Inquiries

Program Inquiries: (202) 357–7051.

For program inquiries, contact the Division of Undergraduate Science, Engineering and Mathematics Education: (202) 357–7051

Forms and Publications: (202) 357–7668.

Copies of Grants for Research and Education in Science and Engineering (NSF 83–57, rev. 3/89) and other forms and publications are available at no cost from Forms and Publications Unit, room 232, National Science Foundation, Washington, DC 20550, or by telephone (202) 357–7668, or e-mail (Bitnet: pubsnsf or Internet: pubsnote.nsf.gov).

Selected Bibliography

The following selected references discuss undergraduate science, engineering, and mathematics education and related issues. The NSF publications are available at no cost from:

Forms and Publications Unit, Room 232, National Science Foundation, 1800 G Street NW., Washington DC 20550, Telephone: 202–357–7668. e-mail: Bitnet: pubsnsf, Internet: pubsnote.nsf.gov

Undergraduate Science, Mathematics, and Engineering Education, Volume I and Volume II, Source Materials, Pub. No. NSB 86–100.

Report on the NSF Disciplinary Workshops on Undergraduate Education, Pub. No. NSF 89–3.

Report on the NSF Workshop on Science, Engineering, and Mathematics Education in Two Year Colleges, Pub. No. NSF 89–50.

Focus on the Future: A National Action Plan for Career-Long Education for Engineers, Report of the Committee on Career-Long Education for Engineers, National Academy of Engineering, 2101 Constitution Avenue NW., Washington, DC 20418, 1988.

Changing America: The New Face of Science and Engineering, Interim Report, The Task Force on Women, Minorities, and the Handicapped in Science and Technology, 330 C Street SW., Washington, DC, 20201, September, 1988.

A National Action Agenda for Engineering Education, Report of the Task Force on a National Action Agenda for Engineering Education, American Society for Engineering Education, Eleven Dupont Circle, Suite 200, Washington, DC, 20036, 1987.

Engineering Education and Practice in the United States, Report of the Committee on the Education and Utilization of the Engineer, Commission on Engineering and Technical Systems, National Research Council, National Academy Press, 2101 Constitution Avenue NW., Washington, DC, 20418, 1985.

Dated: October 12, 1989.

Edward W. Ernst,

Program Director.

Jack R. Lohmann,

Program Director, Division of Undergraduate Science, Engineering and Mathematics Education.

[FR Doc. 89–24521 Filed 10–17–89; 8:45 am]

BILLING CODE 7555–01–M

Meeting (Amended); Advisory Panel for Economics

This notice amends the agenda for the open session.

The National Science Foundation announces the following meeting:

Name: Advisory Panel for Economics, NSF.

Date/Time: Friday November 3, 1989—8:30 a.m. to 5:00 p.m., Saturday November 4, 1989–9:00 a.m. to 3:00 p.m.

Place: Lombardy Hotel, 2019 I St., NW.

Type of Meeting: Part Open-Open November 3, 12:15 p.m. to 1:00 p.m., Closed Remainder.

Contact Persons: Dr. Daniel H. Newlon, Dr. Lynn A. Pollnow, or Dr. Ivy Broder, Program Directors, Division of Social and Economic Science, Room 336, National Science Foundation, Washington, DC 20550, telephone (202) 357–9674.

Minutes: May be obtained from the contact persons at the above address.

Purpose of Meeting: To provide advice and recommendations concerning support for research in economics.

Agenda: Open-General discussion of trends and opportunities in economic research.

Closed—To review and evaluate research proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 522b(c) Government in the Sunshine Act.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 89–24606 Filed 10–17–89; 8:45 am]

BILLING CODE 7555–01–M

Engineering Education Coalitions; Program Solicitation; Meeting

A meeting for engineering deans and other representatives is scheduled for November 7, 1989 in Washington, DC to announce a major new NSF initiative in undergraduate engineering education, the Engineering Education Coalitions program solicitation, to be initiated in FY 1990. Dr. Bassam Z. Shakhashiri, Assistant Director for Science and Engineering Education, and Dr. John A. White, Assistant Director for Engineering, will describe the objectives and operations of this new initiative. The Engineering Education Coalitions is a targeted initiative of the Undergraduate Curriculum Development in Engineering program to support inter-institutional coalitions of engineering programs to reshape and restructure undergraduate engineering education. Funding for the first year of the program is expected to support three major awards.

Many of the challenges facing undergraduate engineering education require a comprehensive and coordinated approach involving significant inter-institutional efforts. This program solicitation will support coalitions of academic institutions in a multi-year commitment to develop, implement and evaluate comprehensive changes and innovations in undergraduate engineering education. NSF funding for each coalition is expected to be about $2 to $3 million per

year for up to 5 years. A competitive coalition should have awarded at least 2,000 undergraduate engineering degrees annually, including 300 degrees to minorities who are underrepresented in engineering and 600 degrees to women.

The meeting will be held at the J.W. Marriott Hotel, 1331 Pennsylvania Ave., NW., Washington, DC, on November 7, 1989, from 2:00–4:00 p.m. A draft of the impending program solicitation and other materials will also be provided.

Questions about this meeting should be directed to either Dr. Edward W. Ernst or Dr. Jack R. Lohmann, (202) 357–7051, in the Division of Undergraduate Science, Engineering and Mathematics Education.

Dated: October 12, 1989.

Edward W. Ernst,

Program Director,

Jack R. Lohmann,

Program Director, Division of Undergraduate Science, Engineering and Mathematics Education.

[FR Doc. 89–24520 Filed 10–17–89; 8:45 am]

BILLING CODE 7555-01-M

Advisory Committee for the Methematical Sciences; Meeting

In compliance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Science Foundation announces the following meeting:

Name: Advisory Committee for the Mathematical Sciences, NSF.

Date & Time: November 6, 1989—10:30 a.m. to 5:30 p.m., November 7, 1989—8:30 a.m. to 5:00 p.m.

Place: Room 540, National Science Foundation, 1800 G Street, NW., Washington, DC 20550

Type of Meeting: November 6 Open—10:30 a.m. to 5:30 p.m., November 7, Open—8:30 a.m. to 5:00 p.m.

Contact Person: Dr. Judith S. Sunley, Division Director, Division of Mathematical Sciences, Room 339, National Science Foundation, Washington, D.C. 20550. Telephone (202) 357–9669. Electronic mail: jsunley@note.nsf.gov. Anyone planning to attend this meeting should notify Dr. Sunley no later than November 3, 1989.

Purpose of Committee: To provide advice and recommendations concerning support for research in the mathematical sciences.

Agenda: Monday, November 6, 1989—10:30 a.m. to 5:30 p.m. (Open) and Tuesday, November 7, 1989—8:30 a.m. to 5:00 p.m. (Open)

Introductory remarks;

Information exchange

—NSF program and budget information,

—Progress in research and education,

—Interests of the community;

Focus on education and human resources;

Focus on research and research infrastructure;

Staffing;

Broadening the base of the advisory system;

Concluding business.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 89–24607 Filed 10–17–89; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

Documents Containing Reporting or Recordkeeping Requirements: Office of Management and Budget Review

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the Office of Management and Budget review of information collection.

SUMMARY: The Nuclear Regulatory Commission (NRC) has recently submitted to the Office of Management and Budget (OMB) for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

1. *Type of submission, new, revision, or extension:* Extension.

2. *The title of the information collection:* 10 CFR part 2, Appendix B—Rules of Practice for Domestic Licensing Proceedings.

3. *The form number if applicable:* Not applicable.

4. *How often the collection is required:* Petitions are submitted only once.

5. *Who will be required or asked to report:* Persons requesting exemption of specific radioactive waste streams from regulation by the Commission due to the presence of radionuclides in such waste streams in sufficiently low concentrations or quantities as to be below regulatory concern.

6. *An estimate of the number of responses:* Six annually.

7. *An estimate of the total number of hours needed to complete the requirement or request:* Approximately 3,000 hours per response. The total annual industry burden is estimated to be 18,000 hours.

8. *An indication of whether section 3504(h), Public Law 96–511 applies:* Not applicable.

9. *Abstract:* Appendix B to 10 CFR part 2 provides regulatory guidance for obtaining expeditious action on rulemaking petitions to exempt specific radioactive waste streams from NRC regulation because the radionuclides present are in such low concentrations or quantities as to be below regulatory concern.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 2120 L Street, NW., Washington, DC.

Comments and questions may be directed by mail to the OMB reviewer: Nicolas B. Garcia, Paperwork Reduction Project (3150–0136), Office of Management and Budget, Washington, DC 20503.

Comments may also be communicated by telephone at (202) 395–3084.

The NRC Clearance Officer is Brenda Jo. Shelton, (301) 492–8132.

Dated at Bethesda, Maryland, this 13th day of October 1989.

For the Nuclear Regulatory Commission.

George H. Messenger,

Acting, Designated Senior Official for Information Resources Management.

[FR Doc. 89–24584 Filed 10–17–89; 8:45 am]

BILLING CODE 7590-01-M

Documents Containing Reporting or Recordkeeping Requirements: Office of Management and Budget Review

AGENCY: United States Regulatory Commission (NRC).

ACTION: Notice of the Office of Management and Budget (OMB) review of information collection.

SUMMARY: The NRC has recently submitted to the Office of Management and Budget (OMB) for review certain information collection requirements that are subject to the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35). These requirements were approved by OMB at the proposed rule stage, approval number 3150–0146. The final rule adds new information collection requirements and licensees records retention periods. Therefore, an amended supporting statement is being submitted to OMB.

1. *Type of submission:* Revision.

2. *The title of the information collection:* 10 CFR parts 2 and 26, Fitness-for-Duty Programs.

3. *The former number if applicable:* N/A.

4. *How often the collection is required:* As necessary.

5. *Who will be required to report:* Nuclear power plant licensees.

6. *An estimate of the number of the reports anticipated annually:*

a. 162 semi-annual reports

b. 162 telephonic events reports.

7. *An annual burden estimate per response:*

a. 40 hrs. per semi-annual report

b. 15 minutes per event report.

8. *An estimate of the total number of hours needed annually by the industry to complete the requirement:* 6,952.2 hours for reports; 25,353 hours for recordkeeping. Therefore, the total annual industry burden is expected to be 32,305 hours.

9. *An indication of whether section 3504(h), Public Law 9696–511 applies:* Not applicable.

10. *Abstract:* 10 CFR parts 2 and 26 of NRC's regulations, "Fitness-for-Duty Programs" require operators of nuclear power plants to implement fitness-for-duty programs to assure that personnel are not under the influence of any substance or mentally or physically impaired, to retain certain records associated within the management of these programs, and to provide reports concerning significant events.

ADDRESSES: Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 2120 L Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Comments and questions should be directed to the OMB reviewer: Nicolas B. Garcia, Paperwork Reduction Project (3150–00146), Office of Management and Budget, Washington, D.C. 20503. Comments can also be submitted by telephone (202) 395–3084.

NRC Clearance Officer is Brenda Jo Shelton, (301) 492–8132.

Dated at Bethesda, Maryland, this 5th day of October 1989.

Joyce A. Amenta,

Designated Senior, Official for Information Resources Management.

[FR Doc. 89–24585 Filed 10–17–89; 8:45 am]

BILLING CODE 7590-01-M

Documents Containing Reporting or Recordkeeping Requirements: Office of Management and Budget Review

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the Office of Management and Budget review of information collection.

SUMMARY: The Nuclear Regulatory Commission (NRC) has recently submitted to the Office of Management and Budget (OMB) for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

1. *Type of submission, new, revision, or extension:* Extension.

2. *The title of the information collection:* 10 CFR part 35—Medical Use of Byproduct Material.

3. *The form number if applicable:* NRC Form 473.

4. *How often the collection is required:* Required reports are collected and evaluated on a continuing basis as events occur. Applications for new licenses or amendments may be submitted at any time. Applications for renewal of licenses are submitted every five years. NRC Form 473 is submitted following the occurrence of a diagnostic misadministration.

5. *Who will be required or asked to report:* Physicians and medical institutions who are applicants for or holders of an NRC license authorizing the administration of byproduct material or its radiation to humans for medical care.

6. *An estimate of the number of responses:* 10 CFR part 35—8,422,955 NRC Form 473—300.

7. *An estimate of the total number of hours needed to complete the requirement or request:* 10 CFR part 35—An average of 0.002 hours per response plus 118.4 hours per recordkeeper. The total industry burden is 302,944 hours annually.

NRC Form 473—An average of 0.5 hours per response. The total industry burden is 150 hours.

8. *An indication of whether Section 3504(h), Pub. L. 96–511 applies:* Not applicable.

9. *Abstract:* 10 CFR part 35, Medical use of Byproduct Material, contains requirements that apply to NRC licensees who are authorized to administer byproduct material or its radiation to humans for medical care. NRC Form 473 is used by NRC medical licensees to report diagnostic misadministrations of radiopharmaceuticals as required by 10 CFR § 35.33. The information in the required reports, applications and records is used by the NRC to ensure that the health and safety of the public is protected and that licensee possession and use of byproduct material is in compliance with license and regulatory requirements.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 2120 L Street, NW., Washington, DC.

Comments and questions may be directed by mail to the OMB reviewer: Nicolas B. Garcia, Paperwork Reduction Project (3150–0010), Office of Management and Budget, Washington, DC 20503.

Comments may also be communicated by telephone at (202) 395–3084.

The NRC Clearance Officer is Brenda Jo. Shelton, (301) 492–8132.

Dated at Bethesda, Maryland, this 5th day of October 1989.

For the Nuclear Regulatory Commission.

Joyce A. Amenta,

Designated Senior Official for Information Resources Management.

[FR Doc. 89–24586 Filed 10–17–89; 8:45 am]

BILLING CODE 7590-01-M

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 September 23, 1989 through October 5, 1989. The last biweekly notice was published on October 4, 1989 (54 FR 40922).

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, 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-223, 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 November 17, 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. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the Local Public Document Room for the particular facility involved. 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. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendments under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. 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.

Duquesne Light Company, Docket Nos. 50-334 and 50-412, Beaver Valley Power Station, Unit Nos. 1 and 2, Shippingport, Pennsylvania

Date of amendment request: January 12, 1989, revision dated August 14, 1989.

Description of amendment request: This is a renotice as a result of the revised amendment request dated August 14, 1989. The original notice was published on February 22, 1989 (54 FR 7634).

The licensee's August 14, 1989 letter expanded the original request to include changes to Table 4.3-3 of the Technical Specifications. Specifically, the licensee proposed to add a footnote to the table to allow the surveillance intervals of the containment radiation monitors be extended to the next refueling outage if the interval between refueling outages is greater than 18 months. This change would obviate the need to perform a calibration of the monitors when the plant is at power, and would thus eliminate the circumstance under which both types of monitors (gaseous and particulate) are rendered inoperable due to calibration activities.

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 in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated, (2) create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in a margin of safety.

The proposed amendment to Table 4.3-3 only adds schedular flexibility to the calibration schedule of the radiation monitors. There is no modification to existing plant hardware nor operating procedures. The monitors themselves do not cause design basis accidents nor are they used to mitigate the consequences of such accidents. Hence the answers to both questions (1) and (2) are negative. There is furthermore no change in the assumptions or acceptance criteria of any previous analysis; thus the answer to question (3) is also negative.

The staff therefore proposes to determine that the requested amendment involves no significant hazards consideration.

Local Public Document Room location: B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001.

Attorney for licensee: Gerald Charnoff, Esquire, Jay E. Silberg, Esquire, Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: John F. Stolz

Houston Lighting & Power Company, City Public Service Board of San Antonio, Central Power and Light Company, City of Austin, Texas, Docket No. 50-498 and 50-499, South Texas Project, Units 1 and 2, Matagorda County, Texas

Date of amendment request: July 14, 1989

Description of amendment request: The proposed license amendments are for a Final Safety Analysis Report (FSAR) change based on the recalculation of radiological doses for a loss of cooling accident, a fuel handling accident, and a Gaseous Waste Processing System (GWPS) failure. These recalculations reflect the original plant design without modification. The proposed changes reflect increased doses, but remain substantially below the limits established in General Design Criterion (GDC) 19, Standard Review Plans (SRPs) 6.4 and 15.7.5, and 10 CFR Part 100. There is no impact on environmental qualification of equipment.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; (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 reviewed the proposed changes and has determined the following:

1) Effect on Probability and Consequences of an Accident:

The proposed change concerns only recalculation of consequences of presently postulated accidents. No system or plant changes are involved. Therefore, there is no effect on the probability of an accident.

The proposed changes document revised analyses which determined increased Control Room, TSC and offsite doses of postulated accidents. The Control Room and TSC doses remain below the regulatory limits established in GDC 19 and SRP 6.4. Offsite doses for the affected accidents are minimally affected.

Occupational doses per 10 CFR 51.22 are unaffected. There is no impact on equipment qualification.

2) Effect on Possibility of a New or Different Kind of Accident:

No plant modifications are involved. There is consequently no effect on the possibility of a new different accident. The changes to the HVAC [High Velocity Air Conditioning] FMEAS [Failure Mode Effects Analyses] are addressed by this revised dose analysis.

3) Effect on Margin of Safety as Defined in Technical Specifications:

Although the consequences of the accident have increased slightly, the affected systems (Control Room HVAC and FHB [Fuel Handling Building] HVAC system, Containment Spray and GWPS) still function within the bounds prescribed by the Technical Specifications. The revised analyses determine the doses considering all appropriate parameters and single failures. There is no change in the basis of the Technical Specifications. Therefore, the Technical Specification margins are maintained.

Based on the previous discussion, the licensee concluded that the proposed amendment requests do not involve a significant increase in the probability of a new or different kind of accident from any accident previously evaluated; nor involve a significant reduction in the required margin of safety. The NRC staff has reviewed the licensee's no significant hazards considerations determination and agrees with the licensee's analysis. The staff has, therefore, made a proposed determination that the licensee's request does not involve a significant hazards consideration.

Local Public Document Rooms Location: Wharton County Junior College, J. M. Hodges Learning Center, 911 Boling Highway, Wharton, Texas 77488 and Austin Public Library, 810 Guadalupe Street, Austin, Texas 78701

Attorney for licensee: Jack R. Newman, Esq., Newman & Holtzinger, P.C., 1615 L Street, NW., Washington, DC 20036

NRC Project Director: Frederick J. Hebdon

Louisiana Power and Light Company, Docket No. 50-382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: August 23, 1989

Description of amendment request: The proposed amendment would revise the Technical Specifications (TS) Section 6 on operator qualification and training to reflect the current regulation, 10 CFR Part 55 as revised May 1987.

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 a 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 a 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 the margin of safety.

Present TS require, in addition to ANSI/ANS 3.1-1978, licensed operators to meet or exceed the minimum qualifications of the supplemental requirements specified in Sections A and C of Enclosure 1 of the March 28, 1980, NRC letter to all licensees. TS also require the retraining and replacement training program to meet or exceed the minimum requirements of the above criteria as well as Appendix A of 10 CFR Part 55. In May 1987, the NRC incorporated Appendix A and the March 28, 1980, letter into 10 CFR Part 55. Therefore, the proposed changes to TS reflect the current 10 CFR Part 55 revision. The licensee has performed an evaluation as follows:

The proposed changes simply incorporate the proper references to 10 CFR Part 55. The Technical Specification's intent remains intact. Therefore, the proposed change in no way increases the probability or consequences of an accident.

As stated above, this proposal causes no change in the intent of the existing Technical Specifications. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes incorporate the proper reference to 10 CFR Part 55. Because the amended 10 CFR does not change the intent of the existing Technical Specifications, the proposed change does not reduce any margin of safety.

We have reviewed the licensee's evaluation and agree with the findings. Therefore, based on the above, the staff proposes to determine that the amendment does not involve a significant hazards consideration.

Local Public Document Room Location: University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans, Louisiana 70122

Attorney for licensee: Bruce W. Churchill, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N St., NW., Washington, DC 20037

NRC Project Director: Frederick J. Hebdon

Omaha Public Power District, Docket No. 50-285, Fort Calhoun Station, Unit No. 1, Washington County, Nebraska

Date of amendment request: September 8, 1989

Description of amendment request: The proposed amendment to the Technical Specifications is to increase the maximum allowable setpoint drift for the primary and secondary safety valve setpoints from 271% to +3%/-2%. This is as a consequence to responding to Licensing Event Reports 87-003 and 87-014 which resulted from safety valve setpoint drifts in excess of that allowed by the Technical Specifications 2.1.6(1) and 2.1.6(3). Based on past experience and the NRC-approved reload licensing methodology, the Loss of Load and the Loss of Feedwater events were found to be the most limiting. Using the NRC-approved CESEC-III transient analysis code and using the above events, the analysis of drifts of +3%/-2% did not exceed the design basis acceptance criteria of 2750 psia and 1100 psia, respectively, as specified in the Updated Safety Analysis Report, Sections 14.9 and 14.10.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The licensee provided an analysis that addressed the above three standards in the amendment application as follows:

The proposed amendment to the Technical Specifications does not involve a significant hazard consideration because the operation of the Fort Calhoun Station in accordance with this amendment would not:

(1) Involve a significant increase in the probability of occurrence or the consequences of an accident or malfunction of equipment important to safety previously evaluated in the safety analysis report. The proposed revision to the allowable setpoint drifts was conservatively analyzed (CESEC-III). The results demonstrate that during a severe transient the peak reactor coolant system pressure (RCS) and peak steam generator pressure would fall significantly below the Safety Limit and design basis acceptance criteria of 2750 psia and 1100 psia, respectively, as specified in the Updated Safety Analysis Report Sections 14.9 and 14.10. Since the safety valves function to control transient events, the revision of the allowable setpoint drifts would not increase the probability of occurrence of such events. Therefore, this amendment would not significantly increase the probability of occurrence or consequences of an accident or malfunction of equipment important to safety previously evaluated in the safety analysis report.

(2) Create the possibility for an accident or malfunction of a different type than any evaluated previously in the safety analysis report. The safety valves function to control transient events. Analysis of the proposed allowable setpoint drift using the NRC approved transient analysis methodology and computer code (CESEC-II) demonstrates that during the limiting overpressure transients, peak RCS pressure and peak steam generator pressure would be significantly below the design basis acceptance criteria of 2750 psia and 1100 psia, respectively, as specified in the Updated Safety Analysis Report Sections 14.9 and 14.10. No new or different kind of accident is created because actual operation of the plant remains unchanged. Therefore, the possibility of an accident or malfunction of a different type than any evaluated previously in the safety analysis report would not be created.

(3) Involve a significant reduction in the margin of safety as defined in the basis for any Technical Specification. This revision only increases the allowable primary and secondary safety valve setpoint drift within safety limits as demonstrated using the NRC approved transient analysis methodology and computer code (CESEC-III). Therefore, the margin of safety as defined in the basis for any Technical Specification is not reduced.

The NRC staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Accordingly, the Commission proposes to determine that the proposed amendment involves no significant hazards consideration.

Local Public Document Room location: W. Dale Clark Library, 215 South 15th Street, Omaha, Nebraska 68102

Attorney for licensee: LeBoeuf, Lamb, Leiby, and MacRae, 1333 New Hampshire Avenue, NW., Washington, DC 20036

NRC Project Director: Frederick J. Hebdon

Pacific Gas and Electric Company, Docket Nos. 50-275 and 50-323, Diablo Canyon Power Plant, Unit Nos. 1 and 2, San Luis Obispo County, California

Date of amendment request: September 19, 1989 (Reference LAR 89-12)

Description of amendment request: The proposed amendments would revise the combined Technical Specifications (TS) for the Diablo Canyon Power Plant (DCPP) Unit Nos. 1 and 2 to delete the requirement for the steam generator water level-low coincident with steam/feedwater flow reactor trip (low feedwater flow reactor trip) following installation of a new digital feedwater control system. Specifically, the following TS would be deleted:

1. TS Table 2.2-1, "Reactor Trip System Instrumentation Trip Setpoints," Functional Unit 14, and associated Bases.
2. TS Table 3.3-1, "Reactor Trip System Instrumentation," Functional Unit 14.
3. TS Table 3.3-2, "Reactor Trip System Instrumentation Response Times," Functional Unit 14.
4. TS Table 4.3-1, "Reactor Trip System Instrumentation Surveillance Requirements," Functional Unit 14.

During the next refueling outages for Units 1 and 2, PG&E plans to install a new digital feedwater control system as allowed by 10 CFR 50.59. The new system will include a steam generator level median signal selector (MSS) that selects the median of three steam generator narrow range signals. This improved design will enhance feedwater control performance and reliability. The installation of the MSS effectively eliminates the concern regarding a single random failure causing a control system action that results in a condition requiring protective action and preventing proper operation of a protection system demand designed to protect against this condition. Thus, the MSS will prevent interaction between the feedwater control and reactor protection systems in accordance with the requirements of IEEE 279-1971. Removal of this interaction eliminates the need for the low feedwater flow reactor trip. The MSS will functionally separate steam generator narrow range level protection channels (low-low trip) to provide compliance with IEEE 279-1971 and satisfy the original design basis.

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 will not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee, in its submittal of September 19, 1989, evaluated the proposed changes against the significant hazards criteria of 10 CFR 50.92 and against the Commission guidance concerning application of this standard. Based on the evaluation given below, the licensee has concluded that the proposed changes do not involve a significant hazards consideration. The licensee's evaluation is as follows:

a. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

Deletion of the low feedwater flow reactor trip combined with installation of the MSS in the digital feedwater control system will allow continued compliance with the requirement of IEEE 279-1971 for prevention of control and protection system interaction. The low feedwater flow reactor trip is not required to mitigate the consequences of any analyzed accidents in the FSAR Update accident analyses. Removal of the low feedwater flow trip will reduce the probability of unplanned reactor trips and unnecessary challenges of engineered safety feature systems.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

b. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

The changes involve removal of the low feedwater flow reactor trip function and the addition of the MSS function. With the MSS installed, the steam generator water level low-low reactor trip will provide protection in compliance with IEEE 279-1971. As discussed above, the low feedwater flow reactor trip function is not required to mitigate the consequences of any accident described in the FSAR Update accident analyses.

Abnormal operational transients that could result from feedwater control system failures are analyzed in the FSAR Update. These analyses bound all postulated feedwater control system failures.

The new digital feedwater control system will improve feedwater performance and reliability. Evaluation of the new system in accordance with 10 CFR 50.59 indicates that no credible protection system failure will result in failure of the MSS or an upset of the feedwater control system.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

c. Does the change involve a significant reduction in a margin of safety?

As discussed above, the low feedwater flow reactor trip is not assumed in the FSAR Update accident analyses. A new digital feedwater control system and MSS function will significantly reduce the potential for feedwater control system related reactor trips and unnecessary challenges to the reactor protection system.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC Staff has reviewed the licensee's no significant hazards consideration determination and finds it acceptable. Therefore, the Staff proposes to determine that the proposed changes do not involve significant hazards consideration.

Local Public Document Room location: California Polytechnic State University Library, Government Documents and Maps Department, San Luis Obispo, California 93407.

Attorneys for licensee: Richard R. Locke, Esq., Pacific Gas and Electric Company, P.O. Box 7442, San Francisco, California 94120 and Bruce Norton, Esq., c/o Pacific Gas and Electric Company, P.O. Box 7442, San Francisco, California 94120.

NRC Project Director: George W. Knighton

Portland General Electric Company et al., Docket No. 50-344, Trojan Nuclear Plant, Columbia County, Oregon

Date of amendment request: February 6, 1989

Description of amendment request: The following change is proposed to the Trojan Technical Specification (TTS) 3/4.6.1.2, "Containment Leakage". The following sentence would be added: "h. The provisions of Specification 4.0.2 are not applicable."

Basis for proposed no significant hazards consideration determination: 10 CFR 50.92 states that a proposed amendment will not involve a significant hazards consideration if the proposed amendment does not: (i) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (ii) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (iii) Involve a significant reduction in a margin of safety.

The licensee has evaluated the proposed amendment against the standards of 10 CFR 50.92. The evaluation is summarized below.

1. This change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The surveillance interval tolerance allowed in TTS 4.0.2 is unnecessary and may conflict with TTS 3/4.6.1.2. Changing TTS 3/4.6.1.2 to make TTS 4.0.2 not applicable does not change test frequency, test methods, or acceptance criteria. Because current procedure will not be changed, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. This change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

As discussed above, the proposed change is administrative in nature and does not alter the test frequency, test methods, or acceptance criteria. The change is a clarification and is not related to creation of an accident.

3. This change does not involve a significant reduction in a margin of safety.

TTS 3/4.6.1.2 implements the requirements of 10 CFR Part 50, Appendix J for "Integrated Leak Rate Test" intervals. The change to TTS 3/4.6.1.2 will eliminate the possible conflict between TTS 3/4.6.1.2 and TTS 4.0.2, and will bring TTS into conformance with the Westinghouse Standard Technical Specifications.

No change is proposed in the Integrated Leak Rate Test frequency, method, or acceptance criteria.

The March 6, 1986 **Federal Register** (51 FR 7751) provided a list of examples of amendments that are not likely to involve a significant hazards consideration. One example from this list is: "A purely administrative change to technical specifications, e.g., a change to achieve consistency throughout the technical specifications, correction of an error, or a change in nomenclature."

This change proposed herein is an administrative change.

The staff has reviewed the licensee's no significant hazards analysis and concurs with the licensee's conclusions. As such, the staff proposes to determine that the requested changes do not involve a significant hazards consideration.

Local Public Document Room location: Portland State University Library, 731 S.W. Harrison Street, Portland, Oregon 97207.

Attorney for license: Leonard A. Girard, Esq., Portland General Electric Company, 121 S.W. Salmon Street, Portland, Oregon 97204.

NRC Project Director: George W. Knighton

Public Service Company of Colorado, Docket No. 50-267, Fort St. Vrain Nuclear Generating Station, Weld County, Colorado

Date of amendment request: September 14, 1989

Description of amendment request: This amendment modifies the design control section, TS Section 6.1. It proposes changes to this section consistent with the licensee's plans to defuel the Fort St. Vrain (FSV) Reactor. These changes include a description of the dummy fuel blocks that will be used to maintain the reactor core's structural integrity. The boron loading in the dummy blocks and provisions for their cooling are also described.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The licensee provided an analysis that addressed the above three standards in the amendment application as follows:

The defueling elements are constructed similar to fuel elements. The defueling elements contain lumped poison pins (LPP's) that replace the negative reactivity of the control rods.

Shutdown margin will be maintained during defueling in accordance with Reactivity Technical Specification LCO 3.1.4, LCO 3.1.6, SR 4.1.4, and SR 4.1.6 similar to a refueling.

The Safety Analysis Report, GA-C19694, analyzed the FSAR accidents contained in Chapter 14 of the Fort St. Vrain FSAR for potential effects of defueling. All accidents during defueling were determined to be bounded by current FSAR analysis or were no longer applicable. The analysis of earthquake, reactivity accident, column deflection and misalignment, misplaced fuel element, blocking of coolant channel, electrical incidents, loss of normal shutdown cooling, moisture ingress, fuel storage accidents, and permanent loss of forced circulation (DBA-1) were determined to be bounded by current analyses. Another five accidents, all involving loss of primary coolant were determined to be no longer applicable.

PSC has evaluated the proposed amendment request for significant hazards consideration using the standards in Title 10, Code of Federal Regulations, Part 50.92. The proposed amendment request involves no significant hazards consideration, since the proposed amendment would not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

The reactor fuel elements will be replaced with defueling elements that contain boronated graphite and no fuel. The startup channels will continue to monitor core reactivity. The structural and thermal characteristics of the reactor will remain unchanged. Procedures for removing the fuel elements will be maintained similar to a refueling. The insertion of the defueling elements will also be similar to a refueling except that the defueling elements will not contain fuel and control rods will not be reinstalled.

Adequate shutdown margin will continue to be assured in accordance with Reactivity Technical Specifications LCO 3.1.4, LCO 3.1.6, SR 4.1.4, and SR 4.1.6.

The Safety Analysis Report, GA-C19694, analyzed the FSAR accidents contained in Chapter 14 of the Fort St. Vrain FSAR for potential effects of defueling. All accidents during defueling were determined to be bounded by current FSAR analysis or were no longer applicable. The analyses of earthquake, reactivity accident, column deflection and misalignment, misplaced fuel element, blocking of coolant channel, electrical incidents, loss of normal shutdown cooling, moisture ingress, fuel storage accidents, and permanent loss of forced circulation (DBA-1) were determined to bounded by current analyses. Another five accidents, all involving loss of primary coolant were determined to be no longer applicable.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated.

No significant change is being made to plant operation or safety system operation as described in Item 1.

3. Involve a significant reduction in a margin of safety. No significant change is being made to refueling procedures (which will be used for defueling), core materials, reactivity monitoring systems, core structural design, or shutdown margin determinations as described in Item 1. Therefore, no significant change in any margin of safety is involved.

Based on the above evaluation, it is concluded that operation (Defueling) of Fort St. Vrain in accordance with the proposed changes will involve no significant hazards consideration.

The staff has reviewed the licensee's no significant hazards consideration determination. Based on the review and

the above discussions, the staff proposes to determine that the proposed changes do not involve significant hazards consideration.

Local Public Document Room location: Greeley Public Library, City Complex Building, Greeley, Colorado

Attorney for licensee: J. K. Tarpey, Public Service Company Building, Room 900, 550 15th Street, Denver, Colorado 80202

NRC Project Director: Seymour H. Weiss

Public Service Company of Colorado, Docket No. 50-267, Fort St. Vrain Nuclear Generating Station, Weld County, Colorado

Date of amendment request: September 14, 1989

Description of amendment request: The proposed license amendment request upgrades the Technical Specifications (TS) Sections 4.7 and 5.7. These TS Sections address fuel handling and storage at Fort St. Vrain. They are being upgraded at the request of the NRC as part of the Technical Specification Upgrade Program (TSUP).

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The licensee provided an analysis that addressed the above three standards in the amendment application as follows:

In a letter dated August 8, 1989, the NRC has requested that Public Service Company of Colorado (PSC) submit these Technical Specification amendments to the fuel handling and fuel storage sections of the Fort St. Vrain Technical Specifications. The fuel handling sections, for the most part, are only applicable while the reactor is shutdown. The fuel storage sections can be applicable more frequently. The handling of defueling elements as described in the Fort St. Vrain Defueling Safety Analysis Report, GA-C19694 submitted August 16, 1989, has been added to LCO 4.7.2. These changes have been stimulated by the Technical Specification Upgrade Program (TSUP), previously reviewed by the NRC, and by the Defueling Safety Analysis Report.

The Fort St. Vrain HTGR has 37 control rod pairs that enter the core from the top. For an accident such as loss of power the control rod drive motors and brakes are deenergized and gravity causes the control rods to fall into the core. During fuel handling, the reactor is shutdown with most of the control rods inserted. The Fuel Handling Machine is used to remove and insert fuel elements into the core during a refueling. The changes being included with this submittal include increased monitoring and surveillance of the Fuel Handling Machine operation.

Other changes being included involve the cooling and monitoring of spent fuel in storage wells. Each of the changes is addressed in the following evaluation.

PSC has evaluated the proposed amendment request for significant hazards consideration using the standards in Title 10, Code of Federal Regulations, Part 50.92. The proposed amendment request involves no significant hazards, since the proposed amendment would not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

The revisions to Sections 4.7 and 5.7 of the Fort St. Vrain Technical Specifications contained herein are being made to improve the specifications for maintaining safety and ensuring proper surveillance of the plant safety systems.

Section 2.26 is added to include a definition of Core Alterations.

Section 2.30 is added to include a definition of Shutdown Margin.

LCO 4.4.1 has been modified to add Note (u) to Page 4.4-7b under permissible bypass conditions. This note identifies a condition where the startup channel low count rate rod withdrawal prohibit can be bypassed because the probability of the reactor going critical is very low. This condition is discussed in more detail in the Fort St. Vrain Defueling Safety Analysis Report, Section 3.1.

LCO 4.5.2 is deleted as it is duplicated by the requirements of LCO 4.7.1.

LCO 4.7.1 adds a clarification of atmospheric pressure as being less than 1 psig, relocates the requirement for monitoring of neutron flux to LCO 4.7.5, adds a requirement to maintain the shutdown margin requirements of LCO 3.1.4, adds the Auxiliary Transfer Cask to the note, and adds an action statement to close up the reactor before the core average inlet temperature reaches 400 degrees F. Each of these changes is a format change or improves the specifications and safe operation of plant equipment. The clarification of atmospheric pressure to be less than 1 psig maintains the reactor pressure well within the pressure ratings of the associated equipment, reactor isolation valve (5 psig) and Fuel Handling Machine (5 psig). Maintenance of the shutdown margin during fuel handling and maintenance is a confirmation of that requirement from LCO 3.1.4. The addition of the Auxiliary Transfer Cask is included as it can be used in place of the Fuel Handling Machine for reactor maintenance. The change of "Specification 3.1.3" to "LCO 3.1.4" is made to agree with the new Reactivity Technical Specifications. An applicability statement stating that applicability is whenever both primary and secondary closures are open on any PCRV penetration is unchanged from the TSUP LCO 3.9.1. The action statement is very similar to the current requirement of LCO 4.7.1. The insertion of a control rod drive and orifice assembly(ies) to close up the reactor before the core average inlet temperature reaches 400 degrees F is designed to protect the seal material of the reactor isolation valve(s). None of these changes involve a significant increase in the probability or consequences of an accident previously evaluated.

LCO 4.7.2 adds a clarification of atmospheric pressure, adds a requirement for the gas waste system to be available, adds a requirement for an additional cooling water coil to be operable or to have backup fire water connections and hose operable, adds a requirement to keep the reactor building crane attached to the Fuel Handling Machine except when the Fuel Handling Machine is bolted to a seismically qualified location, and adds a requirement to maintain switches and alarms operable. An applicability statement has been added which is very similar to the current requirements of LCO 4.7.2 and includes reactor internal maintenance. Action Item c. is modified to include the option of unloading fuel to the Fuel Storage Casks. Action Item d. is new and adds reflector elements and defueling elements to the statement. Each of the changes made is either a format change or improves the specifications and safe operation of the equipment and maintains TSUP analysis. Defueling elements are described in the Fort St. Vrain Defueling Safety Analysis Report, GA-C19694.

The LCO 4.7.3 title has been changed to Fuel Storage Wells, a clarification of atmospheric pressure is added, the requirement to have both cooling coils operable is changed, the requirement for emergency cooling air flow is changed to 9000 cfm in accordance with FSAR section 14.6.3.2, a prohibition from storing irradiated fuel in the central column of a fuel storage well is added and two action statements to incorporate TSUP and FSAR section 14.6.3.2 analyses are added. The Applicability Statement has been

revised from the TSUP to address the possibility that the stored fuel elements can, at some time, maintain a temperature below 750 degrees F without the provisions of this LCO. The Basis is revised to discuss the fact that this LCO is only required to ensure that the fuel element surface temperatures do not exceed 750 degrees F. Each of the changes made is a format change or is a change in accordance with FSAR and/or TSUP analyses. The prohibition from storing irradiated fuel in the central column is addressed in FSAR Section 14.6.3.2 and is a new addition to the Technical Specifications.

LCO 4.7.4 and the Basis are identical to TSUP LCO 3.9.5 which has previously been reviewed by the NRC.

LCO 4.7.5 adds the requirements for monitoring the core reactivity that were formerly included in LCO 4.7.1 and adds action statements that require the startup channels to be operable. A provision has been added that when all control rods have been withdrawn without resulting in reactor criticality, as determined with a calculated k(eff) not to exceed 0.95 assuming all conditions specified in SR 4.1.4, the startup channel low count rate rod withdrawal prohibit can be bypassed. These provisions are in agreement with the Defueling Safety Analysis Report, Section 3.1.

LCO 4.7.6 is a new LCO addressing the maintenance of two-way communications between the Control Room and the refueling deck. It maintains the TSUP analyses and format intact. It also includes an applicability statement and an associated surveillance requirement reference. These additional requirements are considered an enhancement to the Technical Specifications.

SR 5.7.1 changes the current SR 5.7.1 with surveillances every 12 months instead of prior to use and every refueling period. The surveillance requirements of SR 5.7.1 are very similar to TSUP SR 4.9.3 except that some editorial changes are made and the frequency of item c., reactor building crane inspection, has been changed from every 14 days to every 31 days because movement of the reactor building crane is very infrequent. The 31 day interval, in addition to other preventive maintenance inspections required by ANSI B.30.2, adequately assures that the crane will perform properly. This surveillance is an enhancement of the current SR 5.7.1.

SR 5.7.2 changed title of Surveillance from "Fuel Storage Facility" to "Fuel Storage Wells". This Specification is substantially revamped to incorporated the TSUP and FSAR Section 14.6.3.2 analyses. It also envelopes the current Technical Specification analysis. It includes an associated LCO statement. It replaces "once per REFUELING CYCLE" in item c. of the TSUP with "once per 18 months". Refueling Cycle is defined as 18 months. This surveillance is an enhancement of the current SR 5.7.2.

SR 5.7.3 is a new surveillance for the Technical Specifications and adds verification of reactor pressure and temperature every 12 hours. This surveillance and basis are identical to TSUP SR 4.9.1. These are new surveillance requirements and enhance the Technical Specifications.

SR 5.7.4 is a new SR added to provide surveillance requirements not included in the current Technical Specifications for the Spent Fuel Shipping Cask. SR 5.7.4 and the Basis are identical to TSUP SR 4.9.5.

SR 5.7.5 is a new specification for the current Technical Specifications. The new SR 5.7.5 is very similar to TSUP 4.9.2. The Basis is revised to add reference to the condition where subcriticality has been demonstrated with all control rods withdrawn and with a calculated k(eff) not greater than 0.95.

This surveillance is new to the Technical Specifications, supplements the requirements of SR 5.4.1, and is considered an enhancement to the Technical Specifications. The permissible bypass conditions of the startup channel low count rate rod withdrawal prohibit are addressed by the LCO 4.4.1 and LCO 4.7.5.

SR 5.7.6 is a new SR added to provide surveillance requirements for the new Communications During Core Alterations LCO (LCO 4.7.6). It also includes an associated LCO statement. It incorporates the TSUP analysis and is an enhancement to the Technical Specifications.

These changes do not 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.

As described in item 1, no change is being made to plant operation or safety systems that has not been previously analyzed in the FSAR, TSUP analyses, or the Defueling Safety Analysis Report, GA-C19694.

3. Involve a significant reduction in a margin of safety.

No margins of safety are being affected other than those already analyzed in the FSAR or Defueling Safety Analysis Report, GA-C19694. The changes made are format and other changs which will better implement the conditions specified by the FSAR and Defueling Safety Analysis Report, GA-C19694.

Based on the above evaluation, it is concluded that operation of Fort St. Vrain, in accordance with the proposed changes, will involve no significant hazards consideration. PSC considers the proposed changes to be an improvement in the overall plant reliability and documentation as the new limiting conditions for operation and surveillances are designed to improve fuel handling and storage performance. The majority of these changes have been previously reviewed by the NRC during the TSUP review process. Other changes have been presented in the Fort St. Vrain Defueling Safety Analysis Report, GA-C19694.

The staff has reviewed the licensee's no significant hazards consideration determination. Based on the review and the above discussions, the staff proposes to determine that the proposed changes do not involve significant hazards considerations.

Local Public Document Room location: Greeley Public Library, City Complex Building, Greeley, Colorado

Attorney for licensee: J. K. Tarpey, Public Service Company Building, Room 900, 550 15th Street, Denver, Colorado 80202

NRC Project Director: Seymour H. Weiss

Public Service Company of Colorado, Docket No. 50-267, Fort St. Vrain Nuclear Generating Station, Weld County, Colorado

Date of amendment request: September 14, 1989

Description of amendment request: This request is for an upgrade of the TS for reactivity control. This upgrade of the reactivity control TS was requested by the NRC.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The licensee provided an analysis that addressed the above

three standards in the amendment application as follows:

LCO's 4.1.2 through 4.1.6, SR's 5.1.1, 5.1.2, 5.1.3, and 5.1.5 were superseded by the Interim Technical Specifications. These LCO's and SR's are being deleted from the Technical Specifications by this amendment proposal. The Interim Specifications are being replaced by the proposed new Reactivity Control Section, which is derived from the Technical Specification Upgrade Program (TSUP). Other changes are being proposed to the Technical Specifications to support the new Reactivity Control Section. This amendment proposal responds to a request made by the NRC.

As most of this amendment proposal is derived from the TSUP, and the variations between existing Technical Specifications and the TSUP specifications were identified and evaluated as acceptable. Only specific changes between the TSUP specifications previously evaluated and this proposed amendment will be evaluated.

Definitions Section 2.0 is revised to incorporate certain definitions from the TSUP as described in the Summary of Proposed Changes. Other definition changes described in are editorial in nature for clarification.

Definition 2.18 is revised to delete the restriction associated with the termination of surveillances to those having an interval of one month or less. This revision ensures that Surveillance Requirements shall only be applicable for conditions specified for individual Limiting Conditions for Operation unless otherwise stated in an individual Surveillance Requirement. This is consistent with the TSUP.

SR 5.1.4 and AC 7.1.3 are revised to reference superseding specifications. These changes maintain technical equivalence to current Technical Specifications.

Definitions Section 1.0 contains a surveillance interval definition and table for operational modes as used in the Reactivity Control Specifications. This definition and table are derived from and are technically equivalent to TSUP Definition 1.23 and Table 1.1.

Applicability LCO 3.0.1 through 3.0.4 and their Bases are a duplication of the same TSUP specifications, except the example for TSUP LCO 3.7.3 is deleted from the LCO 3.0.3 Basis. The technical content of these specifications is maintained the same as the TSUP Specifications. New Applicability LCO 3.0.5 references current LCO 4.0.4 for CALCULATED BULK CORE TEMPERATURE. Applicability Specifications 4.0.1, 4.0.3, 4.0.4, and their Bases are a duplication of the same TSUP Specifications except for editorializing the reference to Specification 4.0.2.

The 3.25 limit was removed from SR 4.0.2. This will provide greater flexibility, reduce the administrative burden associated with the use of this provision, and have an overall positive effect on safety. As stated in Generic Letter 89-14, 'This alternative to the requirements of Specification 4.0.2 will remove an unnecessary restriction on extending surveillance requirements and will result in a benefit to safety when plant conditions are not conducive to the safe conduct of surveillance requirements'.

New Specification 3/4.1.1 replaces Interim Specification 3/4.1.1 and is derived from TSUP Specification 3/4.1.1. The Surveillance Requirements have been reorganized and re-ordered, to the extent necessary to maintain consistency with the existing procedures. Variations between the TSUP specification and this proposal are editorial in nature and do not affect the technical content.

New Specification 3/4.1.2 replaces Interim Specification 3/4.1.2 and is derived from TSUP Specification 3/4.1.2.1. Variations between the TSUP specification and this proposal are editorial in nature and do not affect the technical content.

New Specification 3/4.1.3 replaces Interim Specification 3/4.1.3 and is derived from TSUP Specification 3/4.1.2.2. Variations between the TSUP specification and this proposal are editorial in nature and clarify control rod requirements "in fueled regions," and do not affect the technical content. A defueled region does not require the negative reactivity of a control rod pair to maintain the SHUTDOWN MARGIN because without fuel, the region has no positive reactivity.

New Specification 3/4.1.4 replaces Interim Specification 3/4.1.4 and is derived from TSUP Specification 3/4.1.3. As stated in the Basis, the purpose of this specification is to ensure that during Shutdown and Refueling, a sufficient number of control rod pairs are fully inserted into fueled regions to keep the reactor in a shutdown condition. The revision to SR 4.1.4 (during Refueling) that will delete the requirement to assess the Shutdown Margin after all control rod pairs have been withdrawn without resulting in reactor criticality, still meets the expressed purpose of this Specification. K(eff) must be calculated assuming the same conditions as during Shutdown Margin assessment except that all control rod pairs shall be assumed withdrawn, and k(eff) must not exceed 0.95 for this revision to become operative. Other variations between the TSUP specification and this proposal are editorial in nature and clarify control rod requirements "in fueled regions," and do not affect the technical content, as described above in the discussion on 3/4.1.3.

New Specification 3/4.1.5 replaces Interim Specification 3/4.1.5 and is derived from TSUP Specification 3/4.1.4.1. Variations between the TSUP specification and this proposal are mostly editorial in nature. The exception to the requirements of TSUP Specification 3/4.1.4.1 during power operation for Xenon Stability Physics Tests, was not included in Specification 3/4.1.5 since this testing will not be done during the remaining time Fort St. Vrain maintains an operating license. This does not degrade the technical aspect of this specification.

New Specification 3/4.1.6 replaces Interim Specification 3/4.1.6 and is derived from TSUP Specification 3/4.1.4.2. As stated in the Basis, the purpose of this specification is to ensure that during Shutdown and Refueling, a sufficient number of control rod pairs are fully inserted into fueled regions to keep the reactor in a shutdown condition. When all control rod pairs have been withdrawn without resulting in reactor criticality, the intent of this specification will be met. See additional discussion in the write-up for Specification 3/4.1.4, above. The added discussion to the Basis on how to make rod pairs incapable of being withdrawn promotes better technical understanding and does not affect the intent or mechanism of this Specification. Other variations between the TSUP specification and this proposal are editorial in nature and clarify control rod requirements "in fueled regions," and do not affect the technical content, as described above in the discussion on 3/4.1.3.

New Specification 3/4.1.7 replaces Interim Specification 3/4.1.7 and is derived from TSUP Specification 3/4.1.5. Only reformatting changes were made to this specification.

New Specification 3/4.1.8 replaces Interim Specification 3/4.1.8 and is derived from TSUP Specification 3/4.1.6.1. Variations between the TSUP specification and this proposal, are editorial in nature and do not affect the technical content.

New Specification 3/4.1.9 replaces Interim Specification 3/4.1.9 and is derived from TSUP Specification 3/4.1.6.2. Variations between the TSUP specification and this proposal are editorial in nature and do not affect the technical content.

Control rods and reserve shutdown material cannot physically be inserted in defueled regions because of the difference between defueling blocks and fuel blocks. For this reason, the clarification that the requirements only apply to fueled regions was added to Specifications 3/4.1.8 and 3/4.1.9.

An exception was added to the applicability of Specification 3/4.1.9., when all control rod pairs have been withdrawn without resulting in reactor criticality, as determined with a calculated k(eff) not exceeding 0.95 assuming all conditions specified in SR 4.1.4, the probability of the reactor going critical is negligible (Ref. the Defueling Safety Analysis Report, GA-C19694). For this reason, Specification 3/4.1.9 is no longer applicable under these circumstances.

Based on the evaluation conducted on the differences between the current Technical Specifications and the TSUP, the acceptability to the NRC of these differences, and the evaluation of the differences between this proposed amendment and the applicable TSUP sections above, this amendment proposal involves no significant hazards because operation of Fort St. Vrain in accordance with this amendment proposal 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.

Therefore, it is concluded that operation of Fort St. Vrain, in accordance with the proposed changes, will involve no significant hazards consideration. PSC considers the proposed changes to be an improvement in the overall plant reliability and safety as the new limiting conditions for operation and surveillances are designed to improve reactivity control. The majority of these

changes have been previously reviewed by the NRC during the TSUP review process.

The staff has reviewed the licensee's no significant hazards consideration determination. Based on the review and the above discussions, the staff proposes to determine that the proposed changes do not involve significant hazards considerations.

Local Public Document Room location: Greeley Public Library, City Complex Building, Greeley, Colorado

Attorney for licensee: J. K. Tarpey, Public Service Company Building, Room 900, 550 15th Street, Denver, Colorado 80202

NRC Project Director: Seymour H. Weiss

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 amendment request: August 18, 1989

Description of amendment request: The licensee has proposed modifications to the Technical Specifications (TS) that would establish a new TS 3/4.7.1.6 regarding the atmospheric dump valves (ADVs). The proposed technical specification establishes the limiting condition for operation, associated action statements, surveillance requirements and bases for the atmospheric dump valves. The proposed technical specification requires that the ADVs be operable at all times in Modes 1, 2, and 3, and in Mode 4 when the steam generators are being used for decay heat removal.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensees have provided the following no significant hazards consideration determination that is quoted below:

1. Will operation of the facility in accordance with this proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

RESPONSE: No

The proposed Technical Specification defines the required Limiting Condition for Operation and Action statements for the ADVs as well as their corresponding Surveillance Requirements to ensure ADV operability and availability. The TS will mandate operability requirements for the ADVs in conformity with the regulatory position, i.e. safe shutdown using only safety-grade systems, and the assumptions made in the safety analyses, i.e. shutdown can be accomplished assuming the most limiting single failure. Therefore, operation of the facility in accordance with this proposed change does not constitute an increase in the probability or consequences of an accident previously evaluated.

2. Will operation of the facility in accordance with this proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

RESPONSE: No

The proposed Technical Specification does not alter the configuration of the plant or its operation. The proposed Technical Specification will further enhance the reliability of the ADVs. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Will operation of the facility in accordance with this proposed change involve a significant reduction in a margin of safety?

RESPONSE: No

The proposed Technical Specification will enhance the availability of the ADVs to perform their design basis functions and to obviate the possibility of an abnormal situation or event which may impose a potential threat to the public health and safety. Therefore, the proposed change does not involve any reduction in a margin of safety.

The NRC staff has reviewed this analysis and, based on that review, it appears that the three criteria are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: General Library, University of California, P.O. Box 19557, Irvine, California 92713.

Attorney for licensee: Charles R. Kocher, Assistant General Counsel, and James Beoletto, Esquire, Southern California Edison Company, P.O. Box 800, Rosemead, California 91770.

NRC Project Director: George W. Knighton

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 amendment request: July 21, 1989

Description of amendment request: The proposed amendments to Table 2.2-1 of Technical Specification Section 2.2.1, "Reactor Trip System Instrumentation Setpoints," and Table 3.3-4 of Technical Specification Section 3.3.2, "Engineered Safety Feature Actuation System Instrumentation," reflects revised instrumentation setpoints associated with the removal and replacement of the existing resistance temperature detector (RTD) bypass manifold system with fast response RTDs located in the reactor coolant hot and cold leg piping.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a no significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

The original RTD bypass system utilized an arrangement which directs a sample of the Reactor Coolant System (RCS) flow from the main coolant piping to an independent temperature measurement manifold. Coolant is redirected by scoops from the hot leg at three locations, 120 degrees apart in the same plane around the pipe circumference, in order to obtain a representative sample. A cold leg sample is also taken, at the discharge of the reactor coolant pump, which provides sufficient mixing so that multiple sampling is not necessary. After temperature measurement, the sample is then returned to the main coolant flow. The narrow range RTDs provide the temperature to calculate loop delta-T and T_{ave}. In order to eliminate operating obstacles associated with the bypass system (such as leakage through valves and flanges and radiation exposure during reactor building maintenance), South Carolina Electric & Gas Company (SCE&G) is proposing to install a fast response system which measures loop temperature via thermowell mounted RTDs protruding into the main reactor coolant flow thereby eliminating the bypass piping network.

The licensee has evaluated the proposed changes against the significant hazards criteria of 10 CFR 50.92 and has determined that, if implemented, the proposed changes do not involve any significant hazards consideration as described below:

1. The probability or consequences of an accident previously evaluated is not significantly increased. The loss-of-coolant accident (LOCA) and non-LOCA accident analyses were reviewed verifying that the variations in uncertainty associated with certain reactor trip functions, reflected in the Technical Specification changes, do not invalidate the current Reload Transition Safety Report (RTSR) analyses of record. Therefore, the design basis conclusions are still met. Additionally, it

was determined that sufficient allowance exists in the current RTSR assumptions such that the total temperature measurement uncertainly and protection system response time for the new RTDs do not impact the RTSR results. With respect to a LOCA, conservative nominal input values were assumed in the analysis and not plant specific input valves; therefore, slight variation in uncertainties do not affect the RTSR results. These conclusions are based upon calculations supporting the revised Tables 2.2-1 and 3.3-4 provided in the attached WCAP-12189. The new values were obtained using methodology consistent with the Westinghouse Setpoint Methodology for Protection System, WCAP-11770, which was previously submitted to the Commission.

2. The possibility for an accident or malfunction of a different type than any evaluated previously in the safety analysis reports is not created. At V.C. Summer Nuclear Station, the three hot leg RTDs and one cold leg RTD will utilize the existing penetrations into the RCS piping from the bypass system with only slight modifications. Caps and welds sealing the crossover leg bypass return piping nozzle, as well as the modification and welding for the existing penetation, will be qualified in accordance with the ASME Code consistent with current plant designs. Consideration has been given to plant response in the remote possibility that a thermowell would be ejected from its boss. It has been concluded that the affect of this flow area is insignificant on the results of the large break LOCA analyses and bounded by the results for the small break LOCA analyses. Therefore, the possibility of a new or different kind of accident does not exist.

The function of the delta-T/T_{ave} protection channels is not changed because of the bypass elimination. The newly installed fast response RTDs perform the same function in both T_{hot} and T_{cold} applications. The three T_{hot} signals are electronically averaged, with the capability to manually add an electronic bias to a two-RTD average should one RTD fail. These measured temperature values will still serve as input to two-out-of-three voting logic for protection functions. Spare RTDs are installed and can be manually activated should the on-line RTD fail. The basis for the instrumentation and control design meets the criteria of applicable IEEE standards, regulatory guides and general design criteria which satisfy electrical separation, seismic and environmental qualification and single failure criteria.

3. The margin of safety as defined in the basis of the Technical Specifications is not significantly reduced by the affect of the change of the response time and setpoint uncertainties. The investigation of the affect of these variables on non-LOCA and LOCA transients has verified that plant operation will be maintained within the bounds of safe, analyzed conditions as defined in the RTSR with the revised Technical Specifications. Conclusions presented in the RTSR remain valid. The specific analyses and supporting calculations supporting these conclusions are provided in the attached WCAP-12189. As such, no reduction in the margin of safety between the RTSR acceptance limit and the ultimiate safety limit (such as departure from nucleate boiling ratio) has taken place for operation with the new RTD system.

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: Fairfield County Library, Garden and Washington Streets, Winnsboro, South Carolina 29180

Attorney for licensee: Randolph R. Mahan, South Carolina Electric and Gas Company, P.O. Box 764, Columbia, South Carolina 29218

NRC Project Director: Elinor G. Adensam

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 amendment request: July 21, 1989

Description of amendment request: The proposed amendment to Section 4.5.2.d deletes the surveillance requirement associated with the Residual Heat Removal (RHR) autoclosure interlock (ACI) concurrent with the deletion of the ACI circuitry scheduled for the fifth refueling outage.

Basis for proposed no significant hazards consideration determination: The Surveillance Requirement 4.5.2.d.1 of the Technical Specifications requires that the automatic isolation and interlock function of the RHR inlet isolation valves be demonstrated operable on an 18 month interval. However, with the ACI function removed, there is no longer a need to retain this surveillance requirement within the Technical Specifications. Removal of the RHR ACI addresses utility and Commission concerns regarding the potential for failure of the ACI circuitry to cause inadvertent isolation of the RHR system with subsequent loss of RHR capability during cold shutdown and refueling operations.

The Commission has provided standards for determining whether a no significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has evaluated the proposed changes against the significant hazards criteria of 10 CFR 50.92 and determined that the proposed change will not:

1. Involve a significant increase in the probability or consequences of any accident previously evaluated because adequate overpressure protection of the RHR system will exist through alarms and relief valves. Further, the probability of a loss of decay heat removal due to closure of the RHR isolation valves has been significantly reduced.

2. Create the possibility of a new different kind of accident from any previously evaluated because the probability of an interfacing LOCA has been significantly reduced.

3. Involve a significant reduction in a margin of safety because the removal of the RHR ACI provides a significant improvement in the availability of the RHR system.

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: Fairfield County Library, Garden and Washington Streets, Winnsboro, South Carolina 29180

Attorney for licensee: Randolph R. Mahan, South Carolina Electric and Gas

Company, P.O. Box 764, Columbia, South Carolina 29218

NRC Project Director: Elinor G. Adensam

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 amendment request: July 24, 1989

Description of amendment request: The purpose of this submittal is to present the justification for extending application of the F* criterion in the Virgil C. Summer Nuclear Station (VCSNS) Technical Specification 3/4.4.5, Steam Generators. Current authorization apply to the F* criterion expires at the end of the fifth fuel cycle which is scheduled to occur in the spring of 1990.

Basis for proposed no significant hazards consideration determination: The F* criterion was developed to allow steam generator tubes to remain in service when degradation has been detected in the full depth hard roll expanded portion of the tube in the tube sheet below the F distance (1.6"). If the F* criterion were not in use for VCSNS, defects below the F* distance would require the affected tubes to be plugged. Based on technical considerations, such plugging is not necessary. The presence of the tube sheet constrains the tube and compliments its integrity in the hard rolled region by precluding tube deformation beyond its expanded outside diameter. The resistance to both tube rupture and tube collapse is significantly strengthened by the tube sheet. In addition, the intimate contact between the tube and the tube sheet effects the leak behavior of any potential throughout tube cracks in this region, i.e., no significant leakage relative to plant technical specification allowables has been experience.

The technical basis for establishing the F* criterion has been presented previously in Westinghouse Reports WCAP-11228 (proprietary) and WCAP-11229 (non-proprietary). The F* criterion identifies a distance below the face of the tube sheet or the top of the last hardroll, whichever is further in the tubesheet, and designates that distance F*. Below F*, tube degradation of any extend does not necessitate plugging. To date, the F* criterion has been utilized during both the third and fourth refueling outages at VCSNS. The information presented by the licensee provided their justification for continuing the application of the F* criterion for the remaining life of the steam generators.

The Commission has provided standards for determining whether a no significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has evaluated the proposed changes against the significant hazards criterion of 10 CFR 50.92 and determined that:

1) The proposed amendment would not involve a significant increase in the probability or consequences of an accident previously evaluated.

As previously documented, the utilization of the F* criterion does not not impact the operability of the steam generator. The restraining action of the tubesheet upon the tubes precludes tube rupture or collapse for F* tubes, and the tube to tubesheet interface restricts the potential for primary to secondary leakage.

The prevention of tube rupture by the tubesheet assures the probability of this accident is unaffected, while the restriction of leakage assures that the consequences of any accident are not significantly affected by the application of F*.

2) The proposed amendment would not create the possibility of a new or different kind of accident previously evaluated.

The proposed changes continue to ensure the integrity of the steam generator tubes and the tubesheet. With the integrity of the steam generator maintained, no new accident scenarios are created.

3) The proposed amendment would not involve a significant reduction in a margin of safety.

The proposed changes extend the use of the F* criterion for the life of the steam generator. Testing and operational experience have revealed that the affected tubes behave as expected, i.e, remain restrained by the tubesheet with no significant leakage, and do not present a safety concern.

Additionally, the NRC has previously found the F* criterion to be acceptable at VCSNS, pending confirmation of tube behavior through two cycles of operation. Documentation to date supports the behavior of F* tubes has been as expected. Proper application of the F* criterion has been demonstrated to not have an adverse effect on the integrity of the generators, thus the F* criterion may be extended for the life of the steam generators without decreasing plant safety.

In addition, the grammatical restructuring of the F* definition is purely administrative in nature and has no technical impact. Based upon the preceding analysis, the licensee concluded, in accordance with 10 CFR 50.91, that the proposed change warrants a no significant hazards determination as defined by 10 CFR 50.92.

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: Fairfield County Library, Garden and Washington Streets, Winnsboro, South Carolina 29180

Attorney for licensee: Randolph R. Mahan, South Carolina Electric and Gas Company, P.O. Box 764, Columbia, South Carolina 29218

NRC Project Director: Elinor G. Adensam

Washington Public Power Supply System, Docket No. 50-397, Nuclear Project No. 2, Benton County, Washington

Date of amendment request: June 23, 1989.

Description of amendment request: The licensee has requested that Technical Specification Tables 3.3.7.5-1, Accident Monitoring Instrumentation, and 4.3.7.5-1, Accident Monitoring Instrumentation Surveillance Requirements, be modified by removing reference to instrument number 24, Post-Accident Sampling Containment Atmosphere Radiation Monitor, and to instrument number 29, Post Accident Sampling Primary Coolant Radiation Monitor. Under the existing technical specification these two instruments must meet specified operability requirements which must be demonstrated by periodic surveillances. Under the proposed amendment the operability of these two instruments would not be required by the technical specifications.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a

facility involves no significant hazards considerations if operation of the facility in accordance with a proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

The function of the post accident sampling system (PASS) is to provide a method for evaluating the extent of core degradation as required by TMI action item II.B.3. The basis for the Accident Monitoring Instrumentation technical specification is to ensure that sufficient information is available on selected plant parameters to monitor and assess important variables following an accident. The two instruments proposed for removal from the technical specifications do not provide data for evaluating the extent of core degradation nor for monitoring and assessing the important variables. The two instruments were included in the plant design to give technicians an indication of contamination levels to enhance safety in the collection of samples. Since these instruments are not the source of the data for the evaluation of accident conditions, the licensee believes that these instruments should be removed from the Technical Specifications.

The licensee does not intend to remove these instruments from service. They will be maintained as are other non-safety related instrumentation. The instruments are part of the PASS which is a function required by the Procedures and Programs section 6.8.4.c in the Administrative Controls section of the WNP-2 Technical Specifications. However, the licensee believes that their operability should not be held to the same standard as the instruments retained in the technical specifications since inoperable status of the two devices would not impair the capability of the licensee to monitor and assess plant conditions following an accident.

The licensee has noted that there is additional monitoring equipment which is used to minimize exposure of personnel during sampling activities.

The licensee has determined that the proposed amendment does not represent a significant hazard because it does not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated because, as discussed above, the instruments do not provide input to plant actions during or following an accident. As such the removal of these instruments from the Technical Specifications will not affect the plant accident response capabilities. Hence, no increase in the consequences of an accident previously evaluated is considered credible. The PASS and the subject instruments are used post accident but do not provide an automatic mitigation function. The proposed change can therefore not influence the probability of occurrence of an accident previously evaluated.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated because the unavailability of the instrumentation will not prevent the PASS from performing its design function. Additionally the proposed change does not represent a change to plant design. Hence no new different accident possibilities are introduced with this change.

3. Involve a significant reduction in a margin of safety because as discussed above the subject instruments do not contribute to the functional bases of the PASS and serve no significant function during post accident conditions. Hence no safety margins are reduced by removing them from the Technical Specifications.

The staff is in agreement with the licensee's evaluation. Accordingly, the Commission proposes to determine that these changes do not involve a significant hazards consideration.

Local Public Document Room location: Richland City Library, Swift and Northgate Streets, Richland, Washington 99352.

Attorneys for licensees: Nicholas S. Reynolds, Esq., Bishop, Cook, Purcell and Reynolds, 1400 L Street, NW., Washington, DC 20005-3502 and G.E. Doupe, Esq., Washington Public Power Supply System, P.O. Box 968, 3000 George Washington Way, Richland, Washington 99352.

NRC Project Director: George W. Knighton

Washington Public Power Supply System, Docket No. 50-397, Nuclear Project No. 2, Benton County, Washington

Date of amendment request: September 14, 1989 (two letters).

Description of amendment request: The Washington Public Power Supply System (the licensee) has applied for an amendment to Technical Specification 3/4.3.1 "Reactor Protection System Instrumentation" and supporting basis. Specifically it is proposed that channel functional test frequencies for eleven instrument channels specified in Table 4.3.1.1-1, "Reactor Protection System Instrumentation Surveillance Requirements," be changed from their current interval to a quarterly interval. The functional units affected and the current channel functional test frequency are: Average power range monitor, flow biased simulated thermal power - upscale, weekly; Average power range monitor, fixed neutron flux - upscale, weekly; Average power range monitor, inoperative, weekly; Reactor vessel steam dome pressure - high, monthly; Reactor vessel water level - low, level 3, monthly; Main steam line isolation valve - closure, monthly; Main steam line radiation - high, monthly; Primary containment pressure - high, monthly; Scram discharge volume water level - high, level transmitter, monthly; Turbine throttle valve - closure, monthly, and; Turbine governor valve fast closure valve trip system oil pressure - low, monthly. Additionally, the frequency of the channel functional test for the manual scram would be increased from monthly to weekly.

The licensee has also proposed to increase the response times for all reactor protection system instrument channels. Currently the licensee must place a trip system for an inoperable channel in the tripped condition within one hour. It is proposed that this time be increased to twelve hours. If the inoperable channel can be restored to an operable status within two hours, the licensee currently is excused from placing the channel in the tripped condition when such action would cause the trip function to occur. The proposed amendment would increase this time to return the channel to operability to six hours.

The licensee would also amend Bases Section 3/4.3.1 to include the basis for the specified surveillance intervals.

The current technical specifications allow a channel to be placed in an inoperable status for up to two hours for required surveillance without placing the trip system in the tripped condition provided that at least one operable channel in the same trip system is monitoring that parameter. The licensee has proposed that this time allowed for surveillance be increased to six hours.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with a proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; (2) Create the possibility of a new or different kind of accident from

any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

The changes would incorporate reactor protection system (RPS) surveillance frequencies and outage times established by the Boiling Water Reactor Owners Group as meeting the recommendations of NRC Generic Letter 83-28, Item 4.5.3. The proposed changes optimize surveillance intervals for improved RPS reliability and increase allowable outage times (AOTs). The owners group study showed that the increase in AOTs has negligible impact on RPS failure frequency yet allows more time for repair and decreases the potential for unnecessary plant shutdown.

The licensee has determined that the proposed amendment does not represent a significant hazard consideration because:

1. The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated because the changes have been shown to have insignificant impact to overall RPS failure rates and operability. As shown by NEDC 30851P ["Technical Specification Improvement Analyses for BWR Reactor Protection System"] and the corresponding plant specific analyses, the changes do not degrade the reliability of the RPS. Hence the probability or consequences of previously evaluated accidents are not significantly increased due to this change. To the contrary as stated in section 5.7.4 [of NEDC 30851P] the changes represent a decrease in core damage frequency.

2. The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated because RPS function and reliability are not degraded by these changes. No new modes of plant operation are introduced with these changes. No new or different kind of accident is credible.

3. The proposed changes do not involve a significant reduction in a margin of safety because as shown in Reference 1) and GE report MDE-88-0485 (Reference 5) and found acceptable by the Staff in Reference 2) the changes represent an overall decrease in core melt frequency. As such the margin of safety is enhanced by the proposed changes.

The staff is in agreement with the licensee's evaluation. Accordingly the Commission proposes to determine that these changes do not involve a significant hazards consideration.

Local Public Document Room location: Richland City Library, Swift and Northgate Streets, Richland, Washington 99352.

Attorneys for licensees: Nicholas S. Reynolds, Esq., Bishop, Cook, Purcell and Reynolds, 1400 L Street, NW., Washington, DC 20005-3502 and G.E. Doupe, Esq., Washington Public Power Supply System, P.O. Box 968, 3000 George Washington Way, Richland, Washington 99352.

NRC Project Director: George W. Knighton

NOTICE OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing in connection with these actions was published in the **Federal Register** as indicated. No request for a hearing or petition for leave to intervene was filed following this notice.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendments, (2) the amendments, and (3) the Commission's related letters, Safety Evaluations and/or Environmental Assessments as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document rooms for the particular facilities involved. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects.

Arkansas Power & Light Company, Docket Nos. 50-313 and 50-368, Arkansas Nuclear One, Units 1 and 2, Pope County, Arkansas

Dates of amendment requests: December 16, 1988

Brief description of amendments: The amedments modified the Technical Specifications to clarify and define which fire barriers are encompassed by the surveillance requirements and action statements.

Date of issuance: September 27, 1989

Effective date: September 27, 1989

Amendment Nos.: 127 and 99

Facility Operating License Nos. DPR-51 and NPF-6. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 26, 1989 (54 FR 31098 and 31099).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 27, 1989.

No significant hazards consideration comments received: No

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801

Boston Edison Company Docket No. 50-293, Pilgrim Nuclear Power Station Plymouth County, Massachusetts

Date of application for amendment: July 31, 1989

Brief Description of amendment: This amendment deletes the onsite and offsite organization charts, including a section on how to change the charts. The amendment also specifies general requirements in place of the deleted charts. The changes affects Section 6.0 "Administrative Control", of the Pilgrim Technical Specifications. The change is in accordance with the guidance provided in NRC Generic Letter 88-06 dated March 22, 1988.

Date of issuance: September 25, 1989

Effective date: Date of issuance and implemented within 30 days.

Amendment No.: 125

Facility Operating License No. DPR-35: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 23, 1989 (54 FR 35101) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 25, 1989.

No significant hazards consideration comments received: No.

Local Public Document Room Location: Plymouth Public Library, 11 North Street, Plymouth, Massachusetts 02360.

Duquesne Light Company, Docket No. 50-334, Beaver Valley Power Station, Unit No. 1, Shippingport, Pennsylvania

Date of application for amendment: May 9, 1989, supplemented by letter dated July 21, 1989.

Brief description of amendment: The amendment revises the Technical Specifications and associated basis pages to permit use of upgraded Westinghouse fuel design in fuel cycle 8 and beyond. The upgraded features included the Vantage 5H design features, reconstitutable top nozzles, debris filter bottom nozzles, snag resistant grids and standardized fuel pellets.

Date of issuance: September 28, 1989

Effective date: September 28, 1989

Amendment No.: 144

Facility Operating License No. DPR-66. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** June 14, 1989 (54 FR 25373) The July 21, 1989 letter provided supplemental information only, and therefore did not change our initial no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 28, 1989

No significant hazards consideration comments received: No

Local Public Document Room location: B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001.

Duquesne Light Company, Docket No. 50-412, Beaver Valley Power Station, Unit No. 2, Shippingport, Pennsylvania

Date of application for amendment: July 27, 1989

Brief description of amendment: The amendment revises certain visual inspection criteria for snubbers and the service life monitoring requirements.

Date of issuance: September 25, 1989

Effective date: September 25, 1989

Amendment No.: 21

Facility Operating License No. NPF-73. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 23, 1989 (54 FR 35102) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 25, 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 application for amendment: June 12, 1989

Brief description of amendment: This amendment adds a new specification which addresses the use of hydrogen purge valves for depressurization.

Date of issuance: October 2, 1989

Effective date: October 2, 1989

Amendment No.: 121

Facility Operating License No. DPR-72. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 26, 1989 (54 FR 31106) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 2, 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

Gulf States Utilities Company, Docket No. 50-458, River Bend Station, Unit 1 West Feliciana Parish, Louisiana

Date of amendment request: June 28, 1989

Brief description of amendment: The amendment modified the implementation of neutron flux monitoring system modifications from the before restart from the next refueling outage starting after 10 months from the date of receipt of the NRC staff's safety evaluation of the Boiling Water Reactor Owners Group topical report, "Position on NRC Regulatory Guide 1.97, Revision 3, Requirements for Post-Accident Neutron Monitoring System," NEDO-31558, March 1988 to before restart from the next refueling outage starting after 18 months from the date of receipt of the staff's safety evaluation on NEDO-31558.

Date of issuance: October 4, 1989

Effective date: October 4, 1989

Amendment No.: 39

Facility Operating License No. NPF-47. The amendment revised the License.

Date of initial notice in **Federal Register:** August 23, 1989 (54 FR 35103) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 4, 1989.

No significant hazards consideration comments received: No

Local Public Document Room location: Government Documents Department, Louisiana State University, Baton Rouge, Louisiana 70803

Northern States Power Company, Docket No. 50-263, Monticello Nuclear Generating Plant, Wright County, Minnesota

Date of application for amendment: July 26, 1989.

Brief description of amendment: The amendment relocates cycle-specific thermal-hydraulic limits from the Technical Specifications to a "Core Operating Limits Report" (COLR) and adds a requirement to submit the COLR to the NRC.

Date of issuance: September 28, 1989

Effective date: September 28, 1989

Amendment No.: 70

Facility Operating License No. DPR-22. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 9, 1989 (54 FR 32713) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 28, 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: May 12, 1989, as supplemented by letters dated May 11, July 3, July 18, and September 5, 1989 (Reference LAR 89-05).

Brief description of amendments: The amendments revised Technical Specification (TS) 3/4.8 "Electrical Power Sources," the related surveillance requirements and bases to change the diesel generator (DG) allowed outage time (AOT) from 72 hours to 7 days. Prior to installation of the sixth DG, this change would apply only to the swing diesel generator (DG 1-3) for performance of preplanned preventive maintenance. After the sixth DG is installed and operational the 7-day AOT would apply to all DGs.

Date of issuance: October 4, 1989

Effective date: October 4, 1989

Amendment Nos.: 44 and 43

Facility Operating License Nos. DPR-80 and DPR-82: Amendments changed the Technical Specifications.

Date of initial notice in **Federal Register:** July 26, 1989 (54 FR 31109) The Commission's related evaluation of the

amendments is contained in a Safety Evaluation dated October 4, 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.

Philadelphia Electric Company, Docket No. 50-352, Limerick Generating Station, Unit 1, Montgomery County, Pennsylvania

Date of application for amendment: September 9, 1988 and August 11, 1989

Brief description of amendment: The amendment revised Sections 3.8.1.1 and 3.8.1.2 along with the associated Bases of the Technical Specifications related to testing requirements of the onsite emergency diesel generators. The application was in response to the Commission's Generic Letter 84-15, "Proposed Staff Actions to Improve and Maintain Diesel Generator Reliability" issued July 2, 1984.

Date of issuance: September 28, 1989

Effective date: September 28, 1989

Amendment No. 32

Facility Operating License No. NPF-39. This amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 1, 1989 (54 FR 5171) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 28, 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: August 26, 1988

Brief description of amendments: Responded to issues identified in several NRC Inspection Reports concerning (a) classification of the specifications for components of the Containment Cooling System and (b) alternate emergency core cooling system component testing requirements upon the loss of a diesel generator.

Date of issuance: September 27, 1989

Effective date: September 27, 1989

Amendments Nos.: 148 and 151

Facility Operating License Nos. DPR-44 and DPR-56: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 28, 1989 (54 FR 31395) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated September 27, 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.

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: March 9, 1989

Brief description of amendments: These amendments reflected the installation of an additional transformer to supply offsite power to the station.

Date of issuance: October 2, 1989

Effective date: October 2, 1989

Amendments Nos.: 149 and 152

Facility Operating License Nos. DPR-44 and DPR-56: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** June 28, 1989 (54 FR 27235) An Environmental Assessment was published on September 26, 1989 (54 FR 39483).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated October 2, 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.

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 24, 1989

Brief description of amendment: The amendment removes the requirement to perturb the reactor vessel water level instruments as part of the monthly functional test of the reactor water level scram instruments.

Date of issuance: September 25, 1989

Effective date: September 25, 1989

Amendment No.: 138

Facility Operating License No. DPR-59: Amendment revised the Technical Specification.

Date of initial notice in **Federal Register:** June 14, 1989 (54 FR 85375) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 25, 1989.

No significant hazards consideration comments received: No

Local Public Document Room location: Penfield Library, State University College of Oswego, Oswego, New York.

Public Service Electric & Gas Company, Docket No. 50-354, Hope Creek Generating Station, Salem County, New Jersey

Date of application for amendment: August 21, 1989, supplemented by a request for exigent treatment on September 11, 1989.

Brief description of amendment: The amendment request amended the Technical Specifications by removing the description of specific fuel assembly and control rod design features and replacing it with a more generic description.

Date of issuance: September 27, 1989

Effective date: September 27, 1989

Amendment No.: 33

Facility Operating License No. NPF-57. This amendment revised the Technical Specifications.

Public comments requested as to proposed no significant hazards consideration: Yes (54 FR 37052 dated September 6, 1989 and 54 FR 38306 dated September 15, 1989). Both notices provided an opportunity to submit comments on the Commission's proposed no significant hazards consideration determination. No comments have been received. Both notices provided for an opportunity to request a hearing (1st, October 6, 1989; 2nd, October 16, 1989), but indicated that if the Commission makes a final no significant hazards consideration determination, any such hearing would take place after issuance of the amendment. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 27, 1989.

Local Public Document Room location: Pennsville Public Library, 190 S. Broadway, Pennsville, New Jersey 08070

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: July 9, 1987

Brief description of amendments: Revised the trip setpoints and channel description of the second level of

undervoltage protection system relays, Tables 3.3-3 and 3.3-4.

Date of issuance: September 25, 1989

Effective date: For Units 1 and 2, as of the date of issuance and shall be implemented within 45 days of the date of issuance.

Amendment Nos.: 102 and 79

Facility Operating License Nos. DPR-70 and DPR-75. These amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 23, 1989 (54 FR 35109) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated September 25, 1989.

No significant hazards consideration comments received: No

Local Public Document Room location: Salem Free Public Library, 112 West Broadway, Salem, New Jersey 08079

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: June 23, 1988 and supplemented on January 26, 1989 and May 22, 1989.

Brief description of amendments: Modification of Surveillance Requirements 4.1.3.4 and 4.1.3.5 by removing the requirement to verify rod position within one hour after rod motion and clarified the applicability of Surveillance Requirement 4.1.3.4.a.

Date of issuance: September 25, 1989

Effective date: Units 1 and 2, effective as of the date of issuance to be implemented within 45 days of the date of issuance.

Amendment Nos.: 103 and 80

Facility Operating License Nos. DPR-70 and DPR-75. These amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** January 11, 1989 (54 FR 1024) and August 23, 1989 (54 FR 35111) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated September 25, 1989.

No significant hazards consideration comments received: No

Local Public Document Room location: Salem Free Public Library, 112 West Broadway, Salem, New Jersey 08079

Sacramento Municipal Utility District, Docket No. 50-312, Rancho Seco Nuclear Generating Station, Sacramento County, California

Date of application for amendment: June 21, 1988, as revised February 28, 1989.

Brief description of amendment: The amendment revised the Technical Specifications concerning reactor building pressure equalization and purge system operability and surveillance.

Date of issuance: September 29, 1989

Effective date: September 29, 1989

Amendment No.: 113

Facility Operating License No. DPR-54: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** May 3, 1989 (54 FR 18958) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 29, 1989.

No significant hazards consideration comments received: No

Local Public Document Room location: Martin Luther King Regional Library, 7340 24th Street Bypass, Sacramento, California 95822.

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: May 22, 1989

Brief description of amendment: This amendment allows, in the case of a missed surveillance requirement, delaying compliance with the Action Statement for a period up to 24 hours to permit the completion of the surveillance when the allowed outage time limits of the Action Statement are less than 24 hours and establishes as the starting time of the noncompliance that time when it is discovered that the Surveillance Requirement has not been performed. This Amendment also permits passage through or to Operational Conditions as required in order to comply with the Action Statements.

Date of issuance: August 8, 1989

Effective date: August 8, 1989

Amendment No.: 81

Facility Operating License No. NPF-12. Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register:** July 12, 1989 (54 FR 29411) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 8, 1989. The amendment was inadvertently issued before expiration of the comment period. However, no comments or requests for hearing were received within the period for such comments or requests.

No significant hazards consideration comments received: No

Local Public Document Room location: Fairfield County Library, Garden and Washington Streets, Winnsboro, South Carolina 29180.

System Energy Resources, Inc., et al., Docket No. 50-416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of application for amendment: December 16, 1988, as revised June 19, 1989

Brief description of amendment: The amendment changes the Technical Specifications (TS) Section 6.0, Administrative Controls, by (1) replacing references to specific operations staff positions with description and qualifications of required personnel, and (2) adding a footnote to allow a licensed Senior Reactor Operator (SRO) on the crew to serve in a dual capacity as SRO and Shift Technical Advisor.

Date of issuance: September 28, 1989

Effective date: September 28, 1989

Amendment No.: 64

Facility Operating License No. NPF-29. This amendment revises the Technical Specifications.

Date of initial notice in **Federal Register:** February 8, 1989 (54 FR 6198) The June 19, 1989 letter withdrew two of the requested TS changes that did not affect the initial determination of no significant hazards consideration as published in the **Federal Register.** The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 28, 1989.

No significant hazards consideration comments received: No

Local Public Document Room location: Hinds Junior College, McLendon Library, Raymond, Mississippi 39154

Tennessee Valley Authority, Docket No. 50-260, Browns Ferry Nuclear Plant, Unit 2, Limestone County, Alabama

Date of application for amendment: June 20, 1989 (TS 272)

Brief description of amendment: The changes add new requirements in the form of a new Section, 3.5/4.5-M to provide more restrictive operating conditions per the guidance of the NRC Bulletin 88-07, Supplement 1.

Date of issuance: October 5, 1989

Effective date: October 5, 1989, and shall be implemented within 60 days

Amendment No.: 174

Facility Operating License No. DPR-52: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 12, 1989 (54 FR 29414) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 5, 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 No. 50-327, Sequoyah Nuclear Plant, Unit 1, Hamilton County, Tennessee

Date of application for amendments: May 1 and 5, 1989 (TS 89-11 and 89-14, respectively)

Brief description of amendments: This amendment revises the surveillance requirements (SR) on the containment integrated leak rate test in Section 3/4.6.1, Primary Containment, of the Sequoyah, Unit 1 Technical Specifications (TS). The revisions to SR 4.6.1.2.a are the following: (1) add a statement to allow a one-time extension of the 40 27 10-month test interval in the SR so that the third ILRT can be conducted during the Unit 1 Cycle 4 refueling outage and (2) delete the requirement that the third ILRT of each 10-year period must be conducted during the shutdown for the 10-year unit inservice inspection. The revision to allow the third ILRT to be conducted during the Unit 1 Cycle 4 refueling outage requires that this outage must begin no later than May 1, 1990 and the third ILRT must be conducted before the restart of Unit 1 from that outage. The first revision was in the licensee's application dated May 1, 1989 (TS 89-11) and the second, was in the licensee's application dated May 5, 1989 (TS 89-14).

The previous requirements in the TS on the third ILRT at Unit 1 also exist in Appendix J of 10 CFR Part 50. The licensee's applications dated May 1 and 5, 1989 also requested a temporary and a permanent exemption to Appendix J. These exemptions to Appendix J to allow the same revisions being made to the TS were granted in the staff's letter dated September 29, 1989.

Date of issuance: September 29, 1989

Effective date: September 29, 1989

Amendment Nos.: 127

Facility Operating Licenses Nos. DPR-77. Amendment revised the Unit 1 Technical Specifications.

Date of initial notice in **Federal Register:** May 31, 1989 (54 FR 23326 and 54 FR 23327, respectively). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 29, 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: June 20, 1988

Brief description of amendment: The amendment revised the Technical Specifications to reflect administrative and editorial changes to the Administrative Controls, including Station Review Board (SRB) responsibilities and the Company Nuclear Review Board's (CNRB's) audit responsibilities. Several minor editorial and administrative changes were also approved.

Date of issuance: October 3, 1989

Effective date: October 3, 1989

Amendment No.: 139

Facility Operating License No. NPF-3. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 9, 1989 (54 FR 32719) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 3, 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.

Virginia Electric and Power Company, et al., Docket Nos. 50-338 and 50-339, North Anna Power Station, Units No. 1 and No. 2, Louisa County, Virginia

Date of application for amendments: July 24, 1989

Brief description of amendments: The amendments add the Superintendent-Engineering to the list of specified members of the Station Nuclear Safety and Operating Committee.

Date of issuance: September 26, 1989

Effective date: September 26, 1989

Amendment Nos.: 124 and 103.

Facility Operating License Nos. NPF-4 and NPF-7. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 23, 1989 (54 FR 35112) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated September 26, 1989.

No significant hazards consideration comments received: No.

Local Public Document Room location: The Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901.

Washington Public Power Supply System, Docket No. 50-397, Nuclear Project No. 2, Benton County, Washington

Date of application for amendment: October 24, 1988

Brief description of amendment: The amendment modifies Section 3/4.3.7, Table 3.3.7.1-1 Radiation Monitoring Instrumentation and the associated bases of the Technical Specifications that reflect modifications in system configuration and operation. These modifications are necessitated by corrective actions taken to prevent an unanalyzed condition that could result from a LOCA and a single failure in the main control room ventilation system.

Date of issuance: October 3, 1989

Effective date: October 3, 1989, and must be fully implemented within 7 days of issuance of the amendment.

Amendment No.: 74

Facility Operating License No. NPF-21: Amendment changed the Technical Specifications.

Date of initial notice in **Federal Register:** November 30, 1988 (53 FR 48340) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 3, 1989.

No significant hazards consideration comments received: No

Local Public Document Room location: Richland City Library, Swift and Northgate Streets, Richland, Washington 99352.

Dated at Rockville, Maryland, this 11th day of October 1989.

For the Nuclear Regulatory Commission

Gary M. Holahan,

Acting Director, Division of Reactor Projects - III, IV, V and Special Projects Office of Nuclear Reactor Regulation

[Doc. 89-24457 Filed 10-18-89; 8:45 am]

BILLING CODE 7590-01-D

Advisory Committee on Reactor Safeguards Subcommittee on Advanced Pressurized Water Reactors; Meeting

The ACRS Subcommittee on advanced Pressurized Water Reactors will hold a meeting on November 3, 1989, Room P-110, 7920 Norfolk Avenue, Bethesda, MD.

The entire meeing will be open to public attendance.

The agenda for the subject meeting shall be as follows: *Friday, November 3, 1989—8:30 a.m. until the conclusion of business*

The Subcommittee will discuss the Westinghouse Advanced Pressurized Water Reactor Design (RESAR-SP/90).

Oral statement may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC staff, its consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. Medhat M. El-Zeftawy (telephone 301/492–9901) between 7:30 a.m. and 4:15 p.m. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: October 11, 1989.

Sam Duraiswamy,

Acting Chief, Project Review Branch No. 2.

[FR Doc. 89–24570 Filed 10–17–89; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards (ACRS) and Advisory Committee on Nuclear Waste (ACNW); Meetings

In order to provide advance information regarding proposed public meetings of the ACRS Subcommittees and meetings of the ACRS full Committee, and of the ACNW, the following preliminary schedule is published to reflect the current situation, taking into account additional meetings which have been scheduled and meetings which have been postponed or cancelled since the last list of proposed meetings published September 19, 1989 (54 FR 38573). Those meetings which are definitely scheduled have had, or will have, an individual notice published in the Federal Register approximately 15 days (or more) prior to the meeting. It is expected that sessions of ACRS full Committee and ACNW meetings designated by an asterisk (*) will be open in whole or in part to the public. ACRS full Committee and ACNW meetings begin at 8:30 a.m. and ACRS Subcommittee meetings usually begin at 8:30 a.m. The time when items listed on the agenda will be discussed during ACRS full Committee and ACNW meetings and when ACRS Subcommittee meetings will start will be published prior to each meeting. Information as to whether a meeting has been firmly scheduled, cancelled, or rescheduled, or whether changes have been made in the agenda for the November 1989 ACRS full Committee meeting can be obtained by a prepaid telephone call to the Office of the Executive Director of the Committee (telephone: 301/492–7288, ATTN: Barbara Jo White) between 7:30 a.m. and 4:15 p.m., Eastern Time.

ACRS Subcommittee Meetings

Advanced Boiling Water Reactors (GE ABWR), October 31, 1989, Bethesda, MD. The Subcommittee will review the NRC staff's SER on Module One of GE ABWR.

Advanced Pressurized Water Reactors, November 3, 1989, Bethesda, MD. The Subcommittee will discuss the WAPWR (RESAR-SP/90) design.

Thermal Hydraulic Phenomena, November 8, and 9, 1989, San Francisco, CA. The Subcommittee will discuss: (1) the capability of the thermal hydraulic codes to model BWR core power instability, and (2) the key thermal hydraulic design aspects of the GE ABWR related to the ECCS, and LOCA analyses.

Thermal Hydraulic Phenomena, November 14, 1989, Bethesda, MD. The Subcommittee will discuss selected topics related to the NRC-RES thermal hydraulic research program, including future research needs and the recent ACRS letter commenting on thermal hydraulic research.

General Electric Reactor Plants, November 14, 1989, Bethesda, MD. The Subcommittee will review the restart of Nine Mile Point Unit 1.

Regulatory Policies and Practices, November 15, 1989, Bethesda, MD. The Subcommittee will discuss integration of the regulatory process.

Thermal Hydraulic Phenomena (week of December 4, 1989), Bethesda, MD. The Subcommittee will review the proposed NRC NRR and RES programs for resolution of the interfacing systems LOCA issue.

Containment Systems, December 12, 1989, Bethesda, MD. The Subcommittee will discuss the NRC staff's document on the Containment Performance Improvements (CPI) Program (all containment types other than BWR Mark Is).

Joint Containment Systems and Structural Engineering, December 13, 1989, Bethesda, MD. The Subcommittees will continue to discuss containment design criteria for future plans with invited speakers from industry and national laboratories.

Regulatory Policies and Practices, January 10, 1990, Bethesda, MD. The Subcommittee will review the approach suggested by the NRC staff in SECY–89–288 for license renewal along with the staff's proposed resolution of industry's comments on the suggested approach obtained at the November Workshop.

Safety Research Program, February 7, 1990, Bethesda, MD. The Subcommittee will discuss the proposed NRC Safety Research Program and Budget for FY 1991.

Occupational and Environmental Protection Systems, Date to be determined (October/November), Bethesda, MD. The Subcommittee will continue to review of Interim Standard for hot particles.

Decay Heat Removal Systems, Date to be determined (November/December), Bethesda, MD. The Subcommittee will review the NRC staff's proposed resolution of Generic Issue 84, "CE PORVs."

Systematic Assessment of Experience, Date to be determined (November/December), Bethesda, MD. The Subcommittee will review the proposed power level increase for Indian Point Unit 2.

Severe Accidents, Date to be determined (December/January), Bethesda, MD. The Subcommittee will discuss the NRC Severe Accident Research Program (SARP) plan.

Advanced Pressurized Water Reactors, Date to be determined (December/January), Bethesda, MD. The Subcommittee will discuss the licensing review bases document being dveloped for Combustion Engineering's Standard Safety Analysis Report-Design Certification (CESSAR-DC).

Joint Severe Accidents and Probabilistic Risk Assessment, Date to be determined (January), Location to be determined. The Subcommittees will continue their review of NUREG–1150, "Severe Accident Risks: An Assessment for Five U.S. Nuclear

Power Plants" (Second Draft for Peer Review).

Decay Heat Removal Systems, Date to be determined (June/July 1990), Bethesda, MD. The Subcommittee will review the proposed resolution of Generic Issue 23, "RCP Seal Failures."

Decay Heat Removal Systems, Date to be determined, Bethesda, MD. The Subcommittee will explore the issue of the use of feed and bleed for decay heat removal in PWRs.

Thermal Hydraulic Phenomena, Date to be determined, Bethesda, MD. The Subcommittee will discuss the status of Industry best-estimate ECCS model submittals for use with the revised ECCS Rule.

Joint Thermal Hydraulic Phenomena and Core Performance, Date to be determined, Bethesda, MD. The Subcommittees will continue their review of boiling water reactor core power stability pursuant to the core power oscillation event at LaSalle County Station, Unit 2.

Auxiliary and Secondary Systems, Date to be determined, Bethesda, MD. The Subcommittee will discuss the: (1) Criteria being used by utilities to design Chilled Water Systems, (2) regulatory requirements for Chilled Water Systems design, and (3) criteria being used by the NRC staff to review the Chilled Water Systems design.

Reliability Assurance, Date to be determined, Bethesda, MD. The Subcommittee will discuss the status of implementation of the resolution of USI A–46, "Seismic Qualification of Equipment in Operating Plants," and other related matters.

Joint Regulatory Activities and Containment Systems, Date to be determined, Bethesda, MD. The Subcommittees will review the proposed final revision to Appendix J to 10 CFR Part 50, "Primary Reactor Containment Leakage Testing for Water-Cooled Power Reactors."

Regulatory Policies and Practices, Date to be determined, Bethesda, MD. The Subcommittee will review the proposed staff program for the renewal of power plant licenses.

Materials and Metallurgy, Date to be determined, Bethesda, MD. The Subcommittee will review the proposed resolution of Generic Issue 29, "Bolting Degradation or Failure in Nuclear Power Plants."

ACRS Full Committee Meetings

355th ACRS Meeting, November 16–18, 1989, Bethesda, MD—Items are tentatively scheduled.

**A. Accident Management (Open)*—Review and comment regarding proposed accident management strategies for consideration in Individual Plant Examinations.

**B. Advanced Pressurized Water Reactors (Open)*—Briefing by NRC staff members regarding the status of review of the proposed standardized advanced pressurized water reactors.

**C. TMI–2 Accident Evaluation (Open)*—Briefing regarding status of the TMI–2 post-accident evaluation effort.

**D. Nine Mile Point Unit 1 (Open)*—Review and report on proposed restart of this BWR plant. Representatives of the NRC staff and licensee will participate as appropriate.

**E. GE Advanced Boiling Water Reactors (Open)*—Review and comment on Module I of this standardized advanced BWR design.

**F. Nuclear Power Plant Access Authorization (Open/Closed)*—Review and comment on proposed final rule regarding access authorization to controlled areas of nuclear power plants.

**G. Integration of the Regulatory Process (Open)*—Discuss proposed ACRS report on proposed integration of the NRC regulatory process.

**H. ACRS Future Activities Open)*—Discuss anticipated ACRS subcommittee activities, proposed ACRS meeting dates, and items proposed for consideration by the full Committee.

**I. ACRS Subcommittee Activities (Open)*—Reports and discussion of assigned ACRS subcommittee activities, including thermal hydraulic matters and ACRS procedures and practices.

**J. Generic Issue B–56, Diesel Reliability and Proposed Regulatory Guide 1.9, Revision 3 (Open)*—Discuss proposed ACRS report regarding NRC staff's proposed resolution of this generic issue.

**K. Generic Issue 87, Failure of HPCI Steam Line Without Isolation (Open)*—Discuss proposed ACRS report regarding NRC staff's proposed resolution of this generic issue.

**L. Material Performance (Open)*—Discuss proposed ACRS report to the NRC regarding performance of Inconel–600 in a nuclear power plant environment.

**M. Appointment of ACRS Members (Open/Closed)*—Discuss status of Commission action regarding nominees for ACRS membership.

356th ACRS Meeting, December 14–16, 1989—Agenda to be announced.

357th ACRS Meeting, January 11–13, 1990—Agenda to be announced.

ACNW Full Committee Meetings

No ACNW Meeting in November, 1989.

ACNW Meeting, December 27, 29, 1989—Cancelled.

15th ACNW Meeting, January 24–26, 1990—Agenda to be announced.

Dated: October 12, 1989.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 89–24511 Filed 10–17–89; 8:45 am]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 34–27349; File No. SR–MSRB–89–6]

Self-Regulatory Organizations; Proposed Rule Change by the Municipal Securities Rulemaking Board Relating to Professional Qualifications

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on August 25, 1989, the Municipal Securities Rulemaking Board ("Board") filed with the Securities and Exchange Commission a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Municipal Securities Rulemaking Board (the "Board") is filing herewith an amendment to Board rule G–3, on professional qualifications, to eliminate the Board's Financial and Operations Principal ("FINOP") Examination and, thus, require FINOP candidates to qualify through the National Association of Securities Dealers' FINOP Examination (hereafter referred to as the "proposed rule change"). The Board requests that the Commission delay the effectiveness of the proposed rule change until January 1, 1990, to allow FINOP candidates to have sufficient time to prepare for the NASD's FINOP examination.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) Rule G–3, on professional qualifications, requires securities firms that engage in municipal securities

transactions to have at least one associated person qualified as a FINOP. A FINOP supervises the financial reporting and net capital compliance required by SEC rules and the processing, clearance, and safekeeping of municipal securities by the securities firm. The chief financial officer of a firm must be qualified as a FINOP. The head of the operations department is also usually a FINOP.

Under Board rule G–3(d), an individual may qualify as a FINOP by passing either the Board's Financial and Operations Principal Qualification Examination (Test Series 54) or by being qualified as a FINOP by the National Association of Securities Dealers ("NASD"). The NASD qualifies FINOPs through its FINOP Examination (Test Series 27). The Board's FINOP examination is a three-hour "paper and pencil" examination with 66 multiple choice questions and additional arithmetical problems which test the candidate's ability to perform net capital and reserve formula computations regarding municipal securities. Developed by the Board in 1978 and administered by the NASD, the Board's FINOP examination is designed to test a candidate's knowledge of applicable Board and SEC rules and statutory provisions pertaining to financial responsibility and recordkeeping as well as the protections afforded investors under the Securities Investor Protection Act of 1970. The FINOP examination used by the NASD qualifies candidates to supervise the financial and operations activities of firms handling both municipal and corporate securities and includes questions on financial responsibility rules, SEC recordkeeping rules and NASD uniform practice rules. In addition, this examination also tests a candidate's knowledge of the Board's recordkeeping and uniform practice requirements.

When the Board's FINOP examination was developed in 1978, FINOPs from all previously unregistered municipal securities dealers were required to take either the Board's or the NASD's FINOP examination. Most took the Board's FINOP examination because, at the time, there were significant differences in the net capital treatment of municipal securities under SEC rules. Since then, however, fewer and fewer FINOP candidates satisfy their examination requirment by taking the Board's FINOP examination. This may be because there are fewer municipal securities-only firms qualifying FINOPs, there are fewer differences in the treatment of municipal securities and other securities in the SEC's net capital rule, or because municipal securities-only firms, like most general securities firms, prefer that their FINOP candidates qualify under the NASD's more comprehensive examination. Because so few Board FINOP examinations are given, the Board has determined to eliminate it.

The NASD currently is revising the test specifications of its FINOP examination. These revised specifications will include, among other things, a section devoted exclusively to questions on Board rules, including rules G–8 and G–9 on recordkeeping, rules G–12 and G–15 on uniform practice, deliveries to customers, and automated clearance and settlement, and rule G–27 on supervision. Also, the Board and the NASD are in the process of reaching an agreement that the questions contained in the NASD's FINOP examination regarding Board rules will be provided or reviewed by the Board.

The proposed rule change also includes certain technical changes to rule G–3.

(b) The proposed rule change is adopted pursuant to section 15B(b)(2)(A), which empowers the Board to adopt rules that:

> provide that no municipal securities broker or municipal securities dealer shall effect any transaction in, or induce or attempt to induce the purchase or sale of, any municipal security unless . . . every natural person associated with such municipal securities broker or municipal securities dealer meets such standards of training, experience, competence, and such other qualifications as the Board finds necessary or appropriate in the public interest or for the protection of investors. In connection with the definition and application of such standards the Board may
>
> (i) appropriately classify municipal securities brokers and municipal securities dealers (taking into account relevant matters, including types of business done, nature of securities other than municipal securities sold, and character of business organization), and persons associated with municipal securities brokers and municipal securities dealers;
>
> (ii) specify that all or any portion of such standards shall be applicable to any such class;
>
> (iii) require persons in any such class to pass tests administered in accordance with subsection (c)(7) of this section * * *.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Board does not believe that the proposed rule change would impose any burden on competition since it applies equally to all FINOP candidates associated with brokers, dealers, and municipal securities dealers.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

In March, 1989, the Board published for comment amendments to rule G–3 to eliminate the Board's FINOP examination. The Board received five comments, four of which are in favor of the amendments. One commentator notes that, even though its primary business is in municipal securities, it has several persons qualified as NASD FINOPs. Another commentator states that the additional subject areas NASD-qualified FINOPs are required to learn should be helpful to Board-qualified FINOPs. One commentator notes that some administrative efficiencies and economies of scale should result from use of only one examination (the NASD's). One commentator, however, states that municipal securities-only firms will be disadvantaged if required to qualify solely through the NASD examination process and sees no reason to change the present procedure. The Board believes that the NASD's FINOP examination is so similar to the Board's examination that municipal securities-only firms should not be disadvantaged by being required to qualify their FINOPs through the NASD's examination.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed

rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section. Copies of such filing also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by November 8, 1989.

For the Commisison by the Division of Market Regulation, pursuant to delegated authority.

Dated: October 10, 1989.

Jonathan G. Katz,

Secretary.

[FR Doc. 89-24568 Filed 10-17-89; 8:45 am]

BILLING CODE 8010-01-M

[File No. 500-1]

American Fusion, Inc., et al.; Order of Suspension of Trading

October 13, 1989.

In the matter of American Fusion, Inc., Cambrian Gold Resources, Inc., Dorex, Inc., Entec Products International, Inc., Gulf Coast Resources International, Inc., IMABV, Ltd., Monarch Acquisitions, Inc., MPV, Inc., National Pro-Gold Resources, Inc., PCP Corp., Puma Motor Car of America, Inc., TBV Corp., Tompson Valley Mining & Exploration, Ltd., TR, Inc., Transworld Energy Systems, and Valdor Gold Corp.

It appears to the Securities and Exchange Commission that there is a lack of adequate current information concerning the securities of American Fusion, Inc., Cambrian Gold Resources, Inc., Dorex, Inc., Entec Products International, Inc., Gulf Coast Resources International, Inc., IMABV, Ltd., Monarch Acquisitions, Inc., MPV, Inc., National Pro-Gold Resources, Inc., PCP Corp., Puma Motor Car of America, Inc., TBV Corp., Tompson Valley Mining & Exploration, Ltd., TR, Inc., Transworld Energy Systems, and Valdor Gold Corp. and that questions have been raised about the adequacy and accuracy of publicly disseminated information concerning, among other things, the corporate histories and financial conditions of the companies, the identities of their shareholders, the length of time those persons have been shareholders and the claims for exemption from the registration provisions of the Securities Act of 1933 made by these companies and pursuant to which their securities are trading. Specifically, among other things, substantial questions have been raised about the true ownership of the shares in these corporations, the identity of officers and directors, and whether the issuers have distributed and are distributing securities in violation of the registration provisions of the Securities Act of 1933. The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed companies.

Therefore, it is ordered, pursuant to section 12(k) of the Securities Exchange Act of 1934, that trading in the above-listed companies, over-the-counter or otherwise, is suspended for the period from 9:30 a.m. e.d.t., October 13, 1989 through 11:59 p.m. e.d.t., on October 22, 1989.

By the Commission.

Jonathan G. Katz,

Secretary.

[FR Doc. 89-24567 Filed 10-17-89; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF STATE

Determination; Assistance to Dominican Republic

Subject: Assistance to the Dominican Republic.

Pursuant to the authority vested in me by section 620(q) of the Foreign Assistance Act of 1961, as amended, (the Act), Executive Order 12163, and the Department of State Delegation of Authority No. 145, I hereby determine that the furnishing of assistance under the Act to the Dominican Republic is in the national interest of the United States.

This determination shall be reported to the Congress as required by law.

This determination shall be published in the **Federal Register.**

Dated: September 22, 1989.

Lawrence Eagleburger,

Acting Secretary of State.

[FR Doc. 89-24592 Filed 10-17-89; 8:45 am]

BILLING CODE 4710-10-M

Shipping Coordinating Committee; Subcommittee on Safety of Life at Sea, Working Group on Lifesaving, Search and Rescue; Meeting

The Working Group on Lifesaving, Search and Rescue of the Subcommittee on Safety of Life at Sea (SOLAS) will conduct an open meeting on November 8, 1989 at 9:30 a.m. in room 4315 at Coast Guard Headquarters, 2100 Second Street SW., Washington, DC.

The purpose of the meeting is to review the agenda items and prepare U.S. positions for the 21st Session of the International Maritime Organization (IMO) Subcommittee on Lifesaving, Search and Rescue, scheduled for March 19-23, 1990. Items of principal interest on the agenda for this session are:

—Clarifications of SOLAS Chapter III, including the completion of revision of Resolution A. 521 [Testing and Evaluation of Lifesaving Appliances).
—Maximum stowage height of survival craft.
—Matters concerning search and rescue (SAR), including those related to the 1979 SAR Conference, the introduction of the Global Maritime Distress and Safety System (GMDSS), and work consequential to the 1988 GMDSS Conference.
—Amendments to the 1977 Torremelinos International Convention for the Safety of Fishing Vessels.
—Inflatable liferafts.
—Reconsideration of SOLAS Regulation V/17 (Pilot Boarding Arrangements).

Members of the public may attend up to the seating capacity of the room.

For further information contact Mr. Kurt J. Heinz, U.S. Coast Guard Headquarters (G-MVI-3/1404), 2100 Second Street SW., Washington, DC 20593-0001, Telephone (202) 267-1444.

Dated: October 6, 1989.

Thomas J. Wajda,

Chairman, Shipping Coordinating Committee.

[FR Doc. 89-24509 Filed 10-17-89; 8:45 am]

BILLING CODE 4710-07-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Approval of Noise Compatibility Program; Akron-Canton Regional Airport, North Canton, OH

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its findings on the noise compatibility program submitted by the Akron-Canton Regional Airport Authority under the provisions of title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96-193) and 14 CFR part 150. These findings are made in recognition of the description of Federal and nonfederal responsibilities in Senate Report No. 96-52 (1980). On April 24, 1989, the FAA determined that the noise exposure maps submitted by the Akron-Canton Regional Airport Authority under Part 150 were in compliance with applicable requirements. On September

21, 1989, the Associate Administrator for Airports approved the Akron-Canton Regional Airport noise compatibility program, as supplemented and revised by an Addendum dated August 8, 1989, titled, "Taxiway and Helicopter Ramp Noise Analysis-Impact on Greensburg Road Homes". This was revised further in a letter from the airport operator dated September 6, 1989. All of the seventeen proposed measures of the program were approved.

EFFECTIVE DATE: The effective date of the FAA's approval of the Akron-Canton Regional Airport noise compatibility program is September 21, 1989.

FOR FURTHER INFORMATION CONTACT: Prescott C. Snyder, Federal Aviation Administration, Great Lakes Region, Airports Division, AGL–611.1, 2300 East Devon Avenue, Des Plaines, Illinois 60018, (312) 694–7538. Documents reflecting this FAA action may be reviewed at this same location.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA has given its overall approval to the noise compatibility program for Akron-Canton Regional Airport, effective September 21, 1989.

Under section 104(a) of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as "the Act"), an airport operator who has previously submitted a noise exposure map may submit to the FAA a noise compatibility program which sets forth the measures taken or proposed by the airport operator for the reduction of existing noncompatibile land uses and prevention of additional noncompatible land uses within the area covered by the noise exposure maps. The Act requires such programs to be developed in consultation with interested and affected parties including local communities, government agencies, airport users, and FAA personnel.

Each airport noise compatibility program developed in accordance with Federal Aviation Regulations (FAR) part 150 is a local program, not a Federal program. The FAA does not substitute its judgment for that of the airport proprietor with respect to which measures should be recommended for action. The FAA's approval or disapproval of FAR part 150 program recommendations is measured according to the standards expressed in part 150 and the Act, and is limited to the following determinations:

a. The noise compatibility program was developed in accordance with the provisions and procedures of FAR part 150;

b. Program measures are reasonably consistent with achieving the goals of reducing existing noncompatible land uses around the airport and preventing the introduction of additional noncompatible land uses;

c. Program measures would not create an undue burden on interstate or foreign commerce, unjustly discriminate against types or classes of aeronautical uses, violate the terms of airport grant agreements, or intrude into areas preempted by the Federal Government; and

d. Program measures relating to the use of flight procedures can be implemented within the period covered by the program without derogating safety, adversely affecting the efficient use and mangement of the navigable airspace and air traffic control systems, or adversely affecting other powers and responsibilities of the Administrator prescribed by law.

Specific limitations with respect to FAA's approval of an airport noise compatibility program are delineated in FAR part 150, § 150.5. Approval is not a determination concerning the acceptability of land uses under Federal, state, or local law. Approval does not by itself constitute an FAA implementing action. A request for Federal action or approval to implement specific noise compatibility measures may be required, and an FAA decision on the request may require an environmental assessment of the proposed action. Approval does not constitute a commitment by the FAA to financially assist in the implementation of the program nor a determination that all measures covered by the program are eligible for grant-in-aid funding from the FAA. Where federal funding is sought, requests for project grants must be submitted to the FAA Detroit Airports District Office in Belleville, Michigan.

The Akron-Canton Regional Airport Authority submitted to the FAA on June 8, 1988 the noise exposure maps, descriptions, and other documentation produced during the noise compatibility planning study conducted from November 1986 through June 1988. The Akron-Canton Regional Airport noise exposure maps were determined by FAA to be in compliance with applicable requirements on April 24, 1989. Notice of this determination was published in the **Federal Register** on May 19, 1989.

The Akron-Canton Regional Airport study contains a proposed noise compatibility program comprised of actions designed for phased implementation by airport management and adjacent jurisdictions from the date of study completion to the year 2008. It was requested that the FAA evaluate and approve this material as a noise compatibility program as described in section 104(b) of the Act. The FAA began its review of the program on July 21, 1989 and was required by a provision of the Act to approve or disapprove the program within 180 days (other than the use of new flight procedures for noise control). Failure to approve or disapprove such program within the 180-day period would have been deemed to be an approval of such program.

The submitted program, supplemented and revised by an Addendum dated August 8, 1989 titled, "Taxiway and Helicopter Ramp Noise Analysis-Impact on Greensburg Road Homes", contained seventeen proposed measures for noise mitigation on and off the airport. This was revised further in a letter from the airport operator dated September 6, 1989. The FAA completed its review and determined that the procedural and substantive requirements of the Act and FAR part 150 have been satisfied. The overall program, therefore, was approved by the Associate Administrator for Airports effective September 21, 1989.

Outright approval was granted for all seventeen program measures. Four of the seventeen measures submitted were "Noise Abatement Measures." These included formalizing existing aircraft and helicopter noise abatement procedures and instituting a new noise abatement turn for a specific runway. The next ten of the seventeen measures submitted were "land Use Management Measures." The measures included planning, zoning and subdivision recommendations/policies, acquiring land and developing parks (for a compatible land use). The last three measures of the seventeen submitted, identified as "Continuing Program Measures," included administrative-type measures such as monitoring compliance, updating the noise contours, responding to noise complaints and conducting on-going review of the noise program.

These determinations are set forth in detail in a Record of Approval endorsed by the Associate Administrator of Airports on September 21, 1989. The Record of Approval, as well as other evaluation materials and documents which comprised the submittal of FAA are available for review at the following locations:

Federal Aviation Administration, 800 Independence Avenue, SW., Room 617, Washington, DC 20591

Federal Aviation Administration, Great Lakes Region, 2300 East Devon Avenue, Room 261, Des Plaines, Illinois 60018

Federal Aviation Administration, Detroit Airports District Office, Willow Run Airport-East Side, 8820 Beck Road, Belleville, Michigan 48111
Akron-Canton Regional Airport Port Authority, Akron-Canton Regional Airport, 5400 Lauby Road, Box No. 23, North Canton, Ohio 44720

Questions may be directed to the individual named above under the heading, **FOR FURTHER INFORMATION CONTACT.**

Issued in Des Plaines, Illinois, September 29, 1989.

W. Robert Billingsley,

Assistant Manager, Airports Division, Great Lakes Region.

[FR Doc. 89-24553 Filed 10-17-89; 8:45 am]

BILLING CODE 4910-13-M

Approval of Noise Compatibility Program, Alexander Hamilton Airport, St. Croix, VI

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its findings on the Noise Compatibility Program (NCP) submitted by the Virgin Islands Port Authority, under the provisions of title I of the Aviation Safety and Noise Abatement Act (ASNA) of 1979 (Pub. L. 96-193) and 14 CFR part 150. These findings are made in recognition of the description of federal and nonfederal responsibilities in Senate Report No. 96-52 (1980). On February 4, 1989, the FAA determined that the noise exposure maps submitted by the Virgin Islands Port Authority, under part 150, were in compliance with applicable requirements. On August 22, 1989, the Administrator approved the Alexander Hamilton Airport Noise Compatibility Program. Ten (10) of the twelve (12) recommendations of the program were approved in full.

EFFECTIVE DATE: The effective date of the FAA's approval of the Alexander Hamilton Airport Noise Compatibility Program is August 22, 1989.

FOR FURTHER INFORMATION CONTACT: Ilia A. Quinones-Flott, Airports Planning and Development Specialist, Federal Aviation Administration, Orlando Airports District Office, 4100 Tradecenter Street, Orlando, Florida 32827-5096, (407) 648-6583. Documents reflecting this FAA action may be reviewed at this same location.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA has given its overall approval to the Noise Compatibility Program for the Alexander Hamilton Airport, St. Croix, VI, effective August 22, 1989.

Under section 104(a) of the Aviation Safety and Noise Abatement Act (ASNA) of 1979 (hereinafter referred to as "the Act"), an airport operator who has previously submitted a noise exposure map may submit to the FAA a noise compatibility program which sets forth the measures taken or proposed by the airport operator for the reduction of existing noncompatible land uses and prevention of additional noncompatible land uses within the area covered by the noise exposure maps. The Act requires such program to be developed in consultation with interested and affected parties including local communities, government agencies, airport users, and FAA personnel.

Each airport noise compatibility program developed in accordance with Federal Aviation Regulations (FAR) part 150 is a local program, not a Federal program. The FAA does not substitute its judgment for that of the airport proprietor with respect to which measures should be recommended for action. The FAA's approval or disapproval of FAR part 150 program recommendations is measured according to the standards expressed in part 150 and the Act, and is limited to the following determinations:

a. The noise compatibility program was developed in accordance with the provisions and procedures of FAR Part 150;
b. Program measures are reasonably consistent with achieving the goals of reducing existing noncompatible land uses around the airport and preventing the introduction of additional noncompatible land uses;
c. Program measures would not create an undue burden on interstate or foreign commerce, unjustly discriminate against type or classes or aeronautical uses, violate the terms of airport grant agreements, or intrude into areas preempted by the Federal government; and
d. Program measures relating to the use of flight procedures can be implemented within the period covered by the program without derogating safety, adversely affecting the efficient use and management of the navigable airspace and air traffic control systems, or adversely affecting other powers and responsibilities of the Administrator prescribed by law.

Specific limitation with respect to FAA's approval of an airport noise compatibility program are delineated in FAR part 150, § 150.5. Approval is not a determination concerning the acceptability of land uses under Federal, state, or local law. Approval does not by itself constitute an FAA implementing action. A request for Federal action or approval to implement specific noise compatibility measures may be required, and an FAA decision on the request may require an environmental assessment of the proposed action. Approval does not constitute a commitment by the FAA to financially assist in the implementation of the program nor a determination that all measures covered by the program are eligible for grant-in-aid funding from the FAA. Where Federal funding is sought, requests for project grants must be submitted to the FAA Airports District Office, Orlando, Florida.

The Virgin Islands Port Authority submitted to the FAA on December 18, 1987, the noise exposure maps, descriptions, and other documentation produced during the noise compatibility planning study conducted from August 14, 1985 through December 16, 1987. The Alexander Hamilton Airport noise exposure maps were determined by FAA to be in compliance with applicable requirements on February 4, 1989. Notice of this determination was published in the **Federal Register** on February 24, 1989.

The Alexander Hamilton Airport study contains a proposed Noise Compatibility Program comprised of actions designed for phased implementation by airport management and adjacent jurisdictions from the date of study completion to/or beyond the year 1992. It was requested that FAA evaluate and approve this material as a Noise Compatibility Program, as described in section 104(b) of the Act. The FAA began its review of the program on February 24, 1989, and was required by a provision of the Act to approve or disapprove the program within 180 days. Failure to approve or disapprove such program within the 180-day period shall be deemed to be an approval of such program.

The NCP assumes completion of a 2,400-foot runway and taxiway extensions to a full runway length of 10,000 feet.

The submitted program contained twelve (12) proposed actions to mitigate noise from the runway extension. The FAA completed its review and determined that the procedural and substantive requirements of the Act and FAR part 150 have been satisfied. Ten (10) of the measures are recommended for approval. Part of a measure regarding imposition of fines for runup violations is recommended for disapproval due to a lack of sufficient analysis of that portion of the measure

to make an informed determination. Two others, Operational Recommendations 4 and 5, were withdrawn by the airport operator and a new Operational Recommendation 6 was submitted in place of Measure 5 which would achieve the same results but is technically sound. Measures 4 and 5 dealt with restricting the use of the fully extended runway and taxiway to wide-body jets by establishing a relocated threshold for aircraft other than wide-body aircraft. The airport operator was advised that this measure would be disapproved because it is technically incorrect to displace or relocate a threshold for only *some* aircraft. The operator was also advised that the related recommendation to restrict use of the extended taxiway would have been disapproved because it would violate portions of FAR 150.35 relative to safe and efficient movement of aircraft. The airport operator withdrew this measure on the advice of the FAA.

This is the first time that FAA would have had to disapprove a measure on technical merit. We advised the airport operator that the analysis and discussion of Operational Measure 5 was clearly presented in the NCP documentation and that some of the desired outcome could be achieved through a voluntary measure involving intersection takeoffs. Operational Recommendation No. 6 was presented to the FAA as a result of this advice.

Approval action for the program elements is as follows:

Measure No.	Description	FAA action
	Noise Control Alternatives	
1	Preferential runway use.	Approved.
2	Preferential flight tracks.	Approved.
3	Engine runup procedures.	Approved. In eastern part of the airport, away from noise sensitive areas.
		Disapproved. Use of noise suppressors and the establishment of a system of fines.
4	Displaced threshold/ Relocated threshold.	Withdrawn by airport operator, August 1989.
5	Restriction of ground movement of aircraft.	Withdrawn by airport operator, August 1989.
6	Noise abatement departure location.	Approved as a voluntary measure.
	Land Use Recommendations	
7	Fee simple purchase of homes located in the Paradise Mills/Louis E. Brown Villas.	Approved.
8	Development controls.	Approved.
	Program Implementation Recommendations	
9	Air traffic control tower orders and agreements.	Approved.
10	Published charts and notices.	Approved.
11	Coordination with airport user groups.	Approved.
12	Oversight and compliance.	Approved.

These determinations are set forth in detail in a Record of Approval endorsed by the Administrator on August 22, 1989.

The Record of Approval, as well as other evaluation materials and the documents comprising the submittal, are available for review at the FAA office listed above and at the administrative offices of the Orlando Airports District Office.

Issued in Orlando, Florida, on September 18, 1989.

Billy J. Langley,

Acting, Manager Orlando Airports District Office.

[FR Doc. 89-24551 Filed 10-17-89; 8:45 am]

BILLING CODE 4910-13-M

Approval of Noise Compatibility Program; McCarran International Airport, Las Vegas, NV

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its findings on the noise compatibility program submitted by the Clark County Department of Aviation, Las Vegas, Nevada, under the provisions of Title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96-193) and 14 CFR part 150. These findings are made in recognition of the description of federal and nonfederal responsibilities in Senate Report No. 96-52 (1980). On November 3, 1988, the FAA determined that the noise exposure maps submitted by the Airport Authority under Part 150 were in compliance with applicable requirements. On September 18, 1989, the Associate Administrator for Airports approved the McCarran International Airport noise compatibility program. Twenty-two (22) of the proposed action elements were approved, one (1) element was partially approved, three (3) elements were disapproved and one (1) element had no action.

EFFECTIVE DATE: The effective date of the FAA's approval of the McCarran International Airport noise compatibility program is September 18, 1989.

FOR FURTHER INFORMATION CONTACT: John L. Pfeifer, Manager, Airports District Office, SFO-600, Federal Aviation Administration, 831 Mitten Road, Burlingame, California 94010. Documents reflecting this FAA action may be reviewed at this same location.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA has given its overall approval to the noise compatibility program for the McCarran International Airport, effective September 18, 1989.

Under Section 104(a) of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as "the Act"), an airport operator who has previously submitted a noise exposure map, may submit to the FAA, a noise compatibility program which sets forth the measures taken or proposed by the airport operator for the reduction of existing noncompatible land uses and prevention of additional noncompatible land uses within the area covered by the noise exposure maps. The Act requires such programs to be developed in consultation with interested and affected parties including local communities, government agencies, airport users, and FAA personnel.

Each airport noise compatibility program developed in accordance with Federal Aviation Regulations (FAR) part 150 is a local program, not a federal program. The FAA does not substitute its judgment for that of the airport proprietor with respect to which measures should be recommended for action. The FAA's approval or disapproval of FAR Part 150 program recommendations is measured according to the standards expressed in Part 150 of the Act and is limited to the following determinations:

a. The noise compatibility program was developed in accordance with the provisions and procedures of FAR part 150;

b. Program measures are reasonably consistent with achieving the goals of reducing existing noncompatible land uses around the airport and preventing the introduction of additional noncompatible land uses;

c. Program measures would not create an undue burden on interstate or foreign commerce, unjustly discriminate against type or classes of aeronautical uses, violate the terms of airport grant agreements, or intrude into areas preempted by the federal government; and

d. Program measures relating to the use of flight procedures can be implemented within the period covered by the program without derogating safety, adversely affecting the efficient use and management of the navigable airspace and air traffic control systems, or adversely affecting other powers and responsibilities of the Administrator prescribed by law.

Specific limitations with respect to FAA's approval of an airport noise compatibility program are delineated in FAR part 150, § 150.5. Approval is not a determination concerning the acceptability of land uses under federal, state, or local law. Approval does not by itself constitute an FAA implementing action. A request for federal action or approval to implement specific noise compatibility measures may be required, and an FAA decision on the request may require an environmental assessment of the proposed action. Approval does not constitute a commitment by the FAA to financially assist in the implementation of the program nor a determination that all measures covered by the program are eligible for grant-in-aid funding from the FAA. Where federal funding is sought, request for project grants must be submitted to the Airports District Office at the location identified in "**FOR FURTHER INFORMATION CONTACT**" clause above.

The Clark County Department of Aviation submitted to the FAA on March 13, 1988, the Noise Exposure Maps, descriptions, and other documentation produced during the noise compatibility planning study conducted from September 3, 1985, through February 24, 1989. The McCarran International Airport noise exposure maps were determined by FAA to be in compliance with applicable requirements on November 3, 1988. Notice of this determination was published in the **Federal Register** on November 29, 1988.

The McCarran International Airport Study contains noise compatibility program comprised of actions designed for phased implementation by airport management and adjacent jurisdictions from the date of study completion to (or beyond) the year 1990. It was requested that the FAA evaluate and approve this material as a noise compatibility program as described in Section 104(b) of the Act. The FAA began its review of the program on July 15, 1989, and was required by a provision of the Act to approve or disapprove the program within 180-days (other than the use of new flight procedures for noise control). Failure to approve or disapprove such program within the 180-day period shall be deemed to be an approval of such a program.

The submitted program contained 27 proposed actions for noise mitigation on and off the airport. The FAA completed its review and determined that the procedural and substantive requirements of the Act and FAR part 150 have been satisfied. The overall program, therefore, was approved by the Associate Administrator for Airports effective September 18, 1989.

Outright approval was granted for twenty-two of the specific program elements. One element was partially approved because of insufficient information on a portion of the element. Three elements were disapproved. Two were disapproved for the purposes of part 150. One was disapproved because of insufficient detail. One element was a no action required at this time because it related to flight procedures. The approved elements included existing nighttime restrictions, existing runway use program, testing proposed flight tracks, encouraging quieter aircraft, evaluating noise-monitoring system, noise abatement staff, public information program, support legislation, acquire land, plan redevelopment, soundproofing, property transaction assistance, encouraging specific plans, consistent off airport improvement, zoning, disclosure to buyers, and continuation of mortgage insurance policies and practices.

These determinations are set forth in detail in a Record of Approval endorsed by the Associate Administrator for Airports on September 18, 1989. The Record of Approval, as well as other evaluation materials and the documents comprising the submittal, are available for review at the FAA office listed above and at the administrative offices of Clark County.

Issued in Hawthorne, California.

Herman C. Bliss,

Manager, Airports Division.

[FR Doc. 89-24555 Filed 10-17-89; 8:45 am]

BILLING CODE 4910-13-M

Noise Exposure Map Notice, Ocala Municipal/Jim Taylor Field Airport, Ocala, FL

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its determination that the noise exposure maps submitted by the City of Ocala, Florida for the Ocala Municipal/Jim Taylor Field Airport under the provisions of Title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96-193) and 14 CFR part 150 are in compliance with applicable requirements.

EFFECTIVE DATE: The effective date of the FAA's determination on the noise exposure maps is September 29, 1989.

FOR FURTHER INFORMATION CONTACT: Tommy J. Pickering, Airport Planning Specialist, Orlando Airports District Office, 4100 Tradecenter Street, Orlando, FL, telephone (407) 648-6583.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA finds that the noise exposure maps submitted for the Ocala Municipal/Jim Taylor Field Airport are in compliance with applicable requirements of part 150, effective September 29, 1989.

Under section 103 of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as "the Act"), an airport operator may submit to the FAA noise exposure maps which meet applicable regulations and which depict noncompatible land uses as of the date of submission of such maps, a description of projected aircraft operations, and the ways in which such operations will affect such maps. The Act requires such maps to be developed in consultation with interested and affected parties in the local community, government agencies, and persons using the airport.

An airport operator who has submitted noise exposure maps that are found by FAA to be in compliance with the requirements of Federal Aviation Regulations (FAR) part 150, promulgated pursuant to Title I of the Act, may submit a noise compatibility program for FAA approval which sets forth the measures the operator has taken or proposes for the reduction of existing noncompatible uses and for the prevention of the introduction of additional noncompatible uses.

The FAA has completed its review of the noise exposure maps and related descriptions submitted by the City of Ocala, Florida. The specific maps under consideration are "1987 Baseline Noise Exposure Map" and "1992 Baseline Noise Exposure Map" in the submission. The FAA has determined that these maps for the Ocala Municipal/Jim Taylor Field Airport are in compliance

with applicable requirements. This determination is effective on September 29, 1989. FAA's determination on an airport operator's noise exposure maps is limited to a finding that the maps were developed in accordance with the procedures contained in appendix A of FAR part 150. Such determination does not constitute approval of the applicant's data, information or plans, or a commitment to approve a noise compatibility program or to fund the implementation of that program.

If questions arise concerning the precise relationship of specific properties to noise exposure contours depicted on a noise exposure map submitted under section 103 of the Act, it should be noted that the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise contours, or in interpreting the noise exposure maps to resolve questions concerning, for example, which properties should be covered by the provisions of section 107 of the Act. These functions are inseparable from the ultimate land use control and planning responsibilities of local government. These local responsibilities are not changed in any way under part 150 or through FAA's review of noise exposure maps. Therefore, the responsibility for the detailed overlaying of noise exposure contours onto the map depicting properties on the surface rests exclusively with the airport operator which submitted those maps, or with those public agencies and planning agencies with which consultation is required under section 103 of the Act. The FAA has relied on the certification by the airport operator, under section 150.21 of FAR part 150, that the statutorily required consultation has been accomplished.

Copies of the noise exposure maps and of the FAA's evaluation of the maps are available for examination at the following locations:

Federal Aviation Administration, 800 Independent Avenue, SW., Room 617, Washington, DC 20591

Federal Aviation Administration, Orlando Airports District Office, 4100 Tradecenter Street, Orlando, FL 32827

Mr. Richard Lewis, Assistant City Manager, City of Ocala, 151 S.E. Osceola Avenue, Ocala, Florida 32678

Questions may be directed to the individual named above under the heading **"FOR FURTHER INFORMATION CONTACT"**.

Issued in Orlando, Florida, September 29, 1989.

Billy J. Langley,

Acting Manager, Orlando Airports District Office.

[FR Doc. 89-24554 Filed 10-17-89; 8:45 am]

BILLING CODE 4910-13-M

Approval of Noise Compatibility Program; Panama City-Bay County Airport Panama City, FL

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its findings on the Noise Compatibility Program submitted by the Panama City-Bay County Airport and Industrial District, under the provisions of title I of the Aviation Safety and Noise Abatement Act (ASNA) of 1979 (Public Law 96-193) and 14 CFR part 150. These findings are made in recognition of the description of Federal and nonfederal responsibilities in Senate Report No. 96-52 (1980). On March 23, 1989, the FAA determined that the noise exposure maps submitted by the Panama City-Bay County Airport and Industrial District, under part 150, were in compliance with applicable requirements. On September 18, 1989, the Administrator approved the Panama City-Bay County Airport Noise Compatibility Program. All of the recommendations of the program were approved.

EFFECTIVE DATE: The effective date of the FAA's approval of the Panama City-Bay County Airport Noise Compatibility Program is September 18, 1989.

FOR FURTHER INFORMATION CONTACT: Tommy J. Pickering, Airports Planning and Development Specialist, Federal Aviation Administration, Orlando Airports District Office, 4100 Tradecenter Street, Orlando, Florida 32827-5096, (407) 648-6583. Documents reflecting this FAA action may be reviewed at this same location.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA has given its overall approval to the Noise Compatibility Program for the Panama City-Bay County Airport, effective September 18, 1989.

Under section 104(a) the Aviation Safety and Noise Abatement Act (ASNA) of 1979, (hereinafter referred to as "the Act") an airport operator who has previously submitted a noise exposure map may submit to the FAA a noise compatibility program which sets forth the measures taken or proposed by the airport operator for the reduction of existing noncompatible land uses and prevention of additional noncompatible land uses within the area covered by the noise exposure maps. The Act requires such program to be developed in consultation with interested and affected parties including local communities, government agencies, airport users, and FAA personnel.

Each airport noise compatibility program developed in accordance with Federal Aviation Regulations (FAR) part 150 is a local program, not a Federal program. The FAA does not substitue its judgment for that of the airport proprietor with respect to which measures should be recommended for action. The FAA's approval or disapproval of FAR Part 150 program recommendations is measured according to the standards expressed in part 150 and the Act, and is limited to the following determinations:

a. The noise compatibility program was developed in accordance with the provisions and procedures of FAR part 150;

b. Program measures are reasonably consistent with achieving the goals of reducing noncompatible land uses around the airport and preventing the introduction of additional noncompatible land uses;

c. Program measures would not create an undue burden on interstate or foreign commerce, unjustly discriminate against type or classes of aeronautical uses, violate the terms of airport grant agreements, or intrude into areas preempted by the Federal government; and

d. Program measures relating to the use of flight procedures can be implemented within the period covered by the program without derogating safety, adversely affecting the efficient use and management of the navigable airspace and air traffic control systems, or adversely affecting other powers and responsibilities of the Administrator prescribed by law.

Specific limitation with respect to FAA's approval of an airport noise compatibility program are delineated in FAR part 150, § 150.5. Approval is not a determination concerning the acceptability of land uses under Federal, state, or local law. Approval does not by itself constitute an FAA implementing action. A request for Federal action or approval to implement specific noise compatibility measures may be required, and an FAA decision on the request

may require an environmental assessment of the proposed action. Approval does not constitute a commitment by the FAA to financially assist in the implementation of the program nor a determination that all measures covered by the program are eligible for grant-in-aid funding from the FAA. Where Federal funding is sought, requests for project grants must be submitted to the FAA Airports District Office, Orlando, Florida.

The Panama City-Bay County Airport and Industrial District submitted to the FAA on March 23, 1989, the noise exposure maps, descriptions, and other documentation produced during the noise compatibility planning study conducted from January 10, 1985 through November 22, 1988. The Panama City-Bay County Airport noise exposure maps were determined by FAA to be in compliance with applicable requirements on March 23, 1989. Notice of this determination was published in the Federal Register on April 12, 1989.

The Panama City-Bay County Airport study contains a proposed Noise Compatibility Program comprised of actions designed for phased implementation by airport management and adjacent jurisdictions from the date of study completion to/or beyond the year 1992. It was requested that FAA evaluate and approve this material as a Noise Compatibility Program, as described in section 104(b) of the Act. The FAA began its review of the program on March 23, 1989, and was required by a provision of the Act to approve or disapprove the program within 180 days. Failure to approve or disapprove such program within the 180-day period shall be deemed to be an approval of such program.

The submitted program contained ten (10) proposed actions for noise mitigation on and off the airport which are divided into two (2) categories of actions: (a) Airport Noise Control Alternatives and (b) Alternatives for Land Use Compatibility. The FAA completed its review and determined that the procedural and substantive requirements of the Act and FAR part 150 have been satisfied. The overall program, therefore, was approved by the Administrator effective September 18, 1989.

Outright approval was granted for nine (9) of the ten (10) specific program elements and one (1) program element was disapproved. The approval action was for the following program elements:

A. Airport Noise Control Alternatives

Measure No.	Description	FAA action
1	Preferential runways	Approved
2	Use of alternative flight tracks/ corridors.	Approved
3	Modification of aircraft approach and departure procedures.	Approved
4	Designated run-up areas/orientation.	Approved
5	Construction of artificial sound barriers (if required).	
6	New parallel runway	Disapproved for purposes of part 150. This runway is clearly planned to be constructed for capacity enhancement. When the runway is in place, the airport will have greater flexibility to operate in such a way that 59 residences will prospectively be removed from the DNL 65 noise contour. However, the runway construction itself is not a measure which the airport operator has taken or proposes to take for the purpose of reducing noncompatible land uses.

B. Alternatives for Land Use Compatibility

1	Noise overlay zone	Approved on the condition that the noise map *will* be published as a matter of public record.
2	Noise disclosure statements.	Approved
3	Building code requirements for soundproofing.	Approved
4	Zoning	Approved

These determinations are set forth in detail in a Record of Approval endorsed by the Administrator on September 18, 1989.

The Record of Approval, as well as other evaluation materials and the documents comprising the submittal, are available for review at the FAA office listed above and at the administrative offices of the Panama City-Bay County Airport and Industrial District.

Issued in Orlando, Florida, on September 29, 1989.

Billy J. Langley,

Acting, Manager, Orlando Airports District Office.

[FR Doc. 89-24552 Filed 10-17-89; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

October 11, 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, Public Law 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: 1545-0047.

Form Number: 990 and Schedule A (Form 990).

Type of Review: Revision.

Title: Return of Organization Exempt From Income Tax Under section 501(c) (except black lung benefit trust or private foundation) of the Internal Revenue Code or section 4947(a)(1) trust.

Description: Form 990 is needed to determine that Internal Revenue Code section 501(a) tax-exempt organizations fulfill the operating conditions of their tax exemption. Schedule A (Form 990) is used to elicit special information from section 501(c)(3) organizations. IRS uses the information from these forms to determine if the filers are operating within the rules of their exemption.

Respondents: Non-profit institutions.

Estimated Number of Respondents: 327,953.

Estimated Burden Hours Per Response/Recordkeeping:

	990	Schedule A (990)
Recordkeeping	82 hrs., 3 mins.	39 hrs., 56 mins.
Learning about the law or the form.	14 hrs. 25 mins.	8 hrs. 2 mins.
Preparing the form	19 hrs. 11 mins.	9 hrs. 6 mins.

	990	Schedule A (990)
Copying, assembling, and sending the form to IRS.	48 mins.	0

Frequency of Response: Annually.
Estimated Total Recordkeeping/ Reporting Burden: 45,411,692 hours.
OMB Number: 1545–0747.
Form Number: 5498.
Type of Review: Extension.
Title: Individual Retirement Arrangement Information.
Description: Form 5498 is used by trustees and issuers to report contributions to and the fair market value of an individual retirement arrangement.
Respondents: Business or other for-profit, Small businesses or organizations.
Estimated Number of Respondents: 47,051.
Estimated Burden Hours Per Response: 7 minutes.
Frequency of Response: Annually.
Estimated Total Reporting Burden: 6,187,674 hours.
OMB Number: 1545–0800.
Form Number: None.
Type of Review: Extension.
Title: Rules and Regulations.
Description: Persons wishing to speak at a public hearing on a proposed rule must submit written comments and an outline within prescribed time limits, for use in preparing agendas and allocating time. Persons interested in the issuance, amendment, or repeal of a rule may submit a petition for this. IRS considers the petitions in its deliberations.
Respondents: Individuals or households, State or local governments, Farms, Businesses or other for-profit, Federal agencies or employees, Non-profit institutions, Small businesses or organizations
Estimated Number of Respondents: 600.
Estimated Burden Hours Per Response: 1 hour 30 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 900 hours.
OMB Number: 1545–0982.
Form Number: None.
Type of Review: Extension.
Title: Various Elections Made Under the Tax Reform Act of 1986.
Description: These regulations establish various elections with respect to which immediate interim guidance on the time and manner of making the election is necessary. These regulations enable taxpayers to take advantage of the benefits of various Code provisions.
Respondents: Individuals or households, State or local governments, Farms, Businesses or other for-profit, Non-profit institutions, Small Businesses or organizations.
Estimated Number of Respondents: 114,710.
Estimated Burden Hours Per Response: 15 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 28,678 hours.
Clearance Officer: Garrick Shear (202) 535–4297.
Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.
OMB Reviwer: 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. 89–24510 Filed 10–17–89; 8:45 am]

BILLING CODE 4810–25–M

DEPARTMENT OF VETERANS AFFAIRS

Information Collection Under OMB Review

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). This document lists the following information: (1) The agency responsible for sponsoring the information collection; (2) the title of the information collection; (3) the Department form number(s), if applicable; (4) a description of the need and its use; (5) frequency of the information collection, if applicable; (6) who will be required or asked to respond; (7) an estimate of the number of responses; (8) an estimate of the total number of hours needed to complete the information collection; and (9) an indication of whether section 3504(h) of Public Law 96–511 applies.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from John Turner, Veterans Benefits Administration, (203C), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 (202) 233–2744.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503, (202) 395–7316. Please do not send applications for benefits to the above addresses.

DATES: Comments on the information collection should be directed to the OMB Desk Officer within 30 days of this notice.

Dated: October 5, 1989.

By direction of the Secretary.

Frank E. Lalley,

Director, Office of Information, Management and Statistics.

Extension

1. Veterans Benefits Administration.
2. REPS Annual Eligibility Report.
3. VA Form 21–8941.
4. The form is used by surviving spouses to furnish evidence of current and continuing entitlement to the Restored Entitlement Program for Survivors (REPS). Entitlement factors include earnings, marital status and status of children. Information provided by the surviving spouse may be used to adjust the rate of REPS benefits.
5. Annually.
6. Individuals or households.
7. 2,250 responses.
8. ¼ hour.
9. Not applicable.

Extension

1. Veterans Benefits Administration.
2. Veterans Application for Counseling.
3. VA Form 28–8832.
4. The form advises veterans and other eligible persons of the educational and vocational counseling services available from VA. The form also serves as an application for counseling.
5. On occasion.
6. Individuals or households.
7. 5,000 responses.
8. 1/12 hour.
9. Not applicable.

Extension

1. Veterans Benefits Administration.
2. Veteran's Supplemental Application for Assistance in Acquiring Specially Adapted Housing.
3. VA Form 26–4555c.
4. The form is used by veterans to apply for the specially adapted housing grant. The information requested is used to determine the economic feasibility of residing in specially adapted housing and to compute the proper grant amount.
5. On occasion.
6. Individuals or households.
7. 280 responses.
8. ¼ hour.
9. Not applicable.

Extension

1. Veterans Benefits Administration.
2. Obtaining Supplemental Information from Hospital or Doctor.
3. VA Form Letter 29–551b.
4. The form is used to request medical evidence from an insured's attending physician or hospital regarding the continuation of disability insurance benefits.
5. On occasion.
6. Individuals or households.
7. 244 responses.
8. ¼ hour.
9. Not applicable.

[FR Doc. 89–24609 Filed 10–17–89; 8:45 am]
BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register
Vol. 54, No. 200
Wednesday, October 18, 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).

SECURITIES AND EXCHANGE COMMISSION

Agency Meetings

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of October 23, 1989.

A closed meeting will be held on Tuesday, October 24, 1989, at 2:30 p.m. An open meeting will be held on Wednesday, October 25, 1989, at 2:00 p.m., in Room 1C30.

The Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A) and (10) and 17 CFR 200.402(a) (4), (8), (9)(i) and (10), permit consideration of the scheduled matters at a closed meeting.

Commissioner Schapiro, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matter of the closed meeting scheduled for Tuesday, October 24, 1989, at 2:30 p.m., will be:

Settlement of administrative proceedings of an enforcement nature.

Institution of injunctive actions.

Dismissal of injunctive action.

Regulatory matter regarding financial institutions.

Consideration of *amicus* participation.

The subject matter of the open meeting scheduled for Wednesday, October 25, 1989, at 2:00 p.m., will be:

1. The Commission will consider: (1) Approval of a proposed rule change by the New York Stock Exchange, Inc. ("NYSE") to trade stock baskets on the Floor of the NYSE; (2) approval of a proposed rule change by the Chicago Board Optons Exchange, Inc. ("CBOE") to trade stock baskets on the Floor of the CBOE; (3) approval of a proposed rule change and transaction reporting plan by the Midwest Stock Exchange, Inc. to establish an after-hours trading session for the execution of transactions in portfolios of securities through its new automated Portfolio Trading System; (4) approval of two separate orders granting the NYSE unlisted trading privileges in stocks contained in the Standard and Poor's ("S&P") 500 Index and granting the CBOE unlisted trading privileges in stocks contained in the S&P 100 and 500 Indexes that are not currently registered for trading on the NYSE and CBOE, respectively, for the limited purpose of trading market baskets; and (5) issuance of a Commission release proposing for comment adoption of new Rule 12a–7 under the Securities Exchange Act of 1934 ("the Act"), which will exempt from Section 12(a) of the Act, solely for the purpose of market basket trading, securities included in a standardized market basket product approved by the Commission pursuant to Section 19(b) of the Act. For further information, please contact George Scargle at (202) 272–2371.

2. Consideration of an application filed by T. Rowe Price Associates, Inc. on behalf of T. Rowe Price Spectrum Fund, Inc. for a conditonal order of the Commission under Sections 6(c), 17(b), and 17(d) and Rule 17d–1 of the Investment Company Act of 1940 to permit the Spectrum Fund to acquire shares of funds within the T. Rowe Price group of funds in excess of the limitations imposed by Sections 12(d)(1) and to permit certain affiliated transactions otherwise prohibited by Sections 17(a) and 17(d). For further information, please contact Bibb L. Strench at (202) 272–2856.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Barbara Green at (202) 272–2000.

Dated: October 13, 1989.

Jonathan G. Katz,

Secretary.

[FR Doc. 89–24198 Filed 10–16–89; 12:27 am]
BILLING CODE 8010-01-M

Corrections

Federal Register
Vol. 54, No. 200
Wednesday, October 18, 1989

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 178

[Docket No. 82F-0229]

Indirect Food Additives, Adjuvants, Production Aids, and Sanitizers

Correction

In rule document 89-22602 beginning on page 39355 in the issue of Tuesday, September 26, 1989, make the following correction:

On page 39355, in the second column, under **SUPPLEMENTARY INFORMATION**, in the second paragraph, in the 11th line, "(4/ABP)" should read "(4-ABP)".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 436 and 455

[Docket No. 89N-0199]

Antibiotic Drugs; Rifampin For Injection

Correction

In rule document 89-21870 beginning on page 38374 in the issue of Monday, September 18, 1989, make the following corrections:

On page 38375, in the second column, in § 436.365(e), in the 6th, 7th and 11th lines, superscript "f" should be a subscript "f".

BILLING CODE 1505-01-D

federal register

Wednesday
October 18, 1989

Part II

Office of Management and Budget

Cumulative Report on Rescissions and Deferrals; Notice

OFFICE OF MANAGEMENT AND BUDGET

Cumulative Report on Rescissions and Deferrals

October 2, 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.[1]

The report gives the status as of October 2, 1989 of seven deferrals contained in the first special message of FY 1990. This message was transmitted to the Congress on October 2, 1989.

Rescissions

As of the date of this report, no rescission proposals are pending before the Congress.

Deferrals (Table A and Attachment A)

As of October 2, 1989 $1,369.2 million in budget authority was being deferred from obligation. Attachment A shows the history and status of each deferral reported during FY 1990.

Information from Special Messages

The special message containing information on the deferrals covered by this cumulative report is printed in the **Federal Register** listed below:

Vol. 54, FR p. 41410, Friday, October 6, 1989.

Richard G. Darman,

Director.

BILLING CODE 3110–01–M

[1] Because October 1st fell on a Sunday this year, this report is as of October 2nd.

TABLE A

STATUS OF 1989 DEFERRALS

	Amount (In millions of dollars)
Deferrals proposed by the President.....	1,380.4
Routine Executive releases through October 2, 1989.....	-11.2
Overturned by the Congress.....	0
Currently before the Congress.....	1,369.2

Attachments

Attachment A - Status of Deferrals - Fiscal Year 1990

As of October 2, 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 10-2-89
FUNDS APPROPRIATED TO THE PRESIDENT									
International Security Assistance									
Economic support fund	D90-1	271,000		10-02-89	11,200				259,800
DEPARTMENT OF AGRICULTURE									
Forest Service									
Expenses, brush disposal	D90-2	188,680		10-02-89					188,680
Cooperative work	D90-3	410,189		10-02-89					410,189
DEPARTMENT OF DEFENSE - CIVIL									
Wildlife Conservation, Military Reservations									
Wildlife conservation, Defense	D90-4	1,047		10-02-89					1,047
DEPARTMENT OF HEALTH AND HUMAN SERVICES									
Social Security Administration									
Limitation on administrative expenses (construction)	D90-5	7,078		10-02-89					7,078
DEPARTMENT OF STATE									
Bureau for Refugee Programs									
United States emergency refugee and migration assistance fund, executive	D90-6	44		10-02-89					44

As of October 2, 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 10-2-89
DEPARTMENT OF TRANSPORTATION									
Federal Aviation Administration									
Facilities and equipment (Airport and airway trust fund).....	090-7	502,361		10-02-89					502,361
TOTAL, DEFERRALS.....		1,380,400	0		11,200	0		0	1,369,200

[FR Doc. 89-24508 Filed 10-17-89; 8:45am]
BILLING CODE 3110-01-M

Federal Register

Wednesday
October 18, 1989

Part III

Department of Transportation

Federal Railroad Administration

49 CFR Part 209

Railroad Safety Enforcement Procedures; Disqualification Proceedings; Rule

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[FRA Docket No. RSEP-6, Notice No. 2]

49 CFR Part 209

RIN 2130-AA49

Railroad Safety Enforcement Procedures; Disqualification Proceedings

AGENCY: Federal Railroad Administration (FRA), DOT.

ACTION: Final rule.

SUMMARY: FRA is amending its railroad safety enforcement regulations (49 CFR part 209) to prescribe procedures for disqualifying railroad employees, including managers, supervisors, and other agents from performing safety-sensitive functions in the rail industry. Section 3(a) of the Rail Safety Improvement Act of 1988 authorizes FRA to disqualify individuals who are shown to be unfit to perform safety-sensitive functions, based on the individual's violation of an FRA safety rule, regulation, order or standard. These procedures are intended to assure the prompt and efficient conduct of disqualification proceedings under the Act while affording administrative due process to those against whom such proceedings are initiated.

EFFECTIVE DATE: This final rule will be effective November 17, 1989.

FOR FURTHER INFORMATION CONTACT: Daniel C. Smith, Deputy Assistant Chief Counsel for Safety, Office of Chief Counsel, FRA, 400 Seventh Street, SW., Washington, DC, 20590. Telephone: (202) 366-0628.

SUPPLEMENTARY INFORMATION:

Introduction

On December 9, 1988, FRA published in the **Federal Register** a notice of proposed rulemaking (NPRM) to amend part 209, entitled "Railroad Safety Enforcement Procedures," by revising Subpart A—General and adding a new Subpart D—Disqualification Procedures prescribing procedures for disqualifying railroad employees, including managers, supervisors, and other agents from performing safety-sensitive functions in the rail industry (53 FR 49695). A public hearing was held in Washington, DC on January 5, 1989, at which seven organizations were represented: Three railroads, one organization representing railroads, and three organizations representing railroad employees. In addition, those organizations provided prepared statements, and written comments were received from one individual, one labor union, and six other railroads.

The Rail Safety Improvement Act of 1988 (RSIA), Public Law 100-342, 102 Stat. 624 (June 22, 1988), empowers the Secretary to disqualify individuals who are shown to be unfit to perform safety-sensitive functions, based on violations of safety rules, regulations, orders or standards "after notice and opportunity for a hearing."

A preliminary question was whether the RSIA requires formal, trial-type "on the record" hearings (*i.e.*, characterized by testimony of witnesses under oath, cross-examination, and compulsory process) under 5 U.S.C. 554, 556, and 557. There is no declaration in the RSIA of an individual's right to an "on the record" hearing. Neither is there any reference to such a procedural requirement in the Conference Report. See H.R. Rep. No. 100-637, 100th Cong., 2d Sess. 20 (1988). No House Report was issued. The debates in the House and the Senate shed no light on the issue. *See* 133 Cong. Rec. S15893-15910 (daily ed. November 15, 1987) (Senate floor debate and passage of S. 1539); 133 Cong. Rec. H11745-11753 (daily ed. December 18, 1987) (House floor debate and passage of H.R. 3743); 134 Cong. Rec. H218-224 (daily ed. February 3, 1988) (House passage of S. 1539 as amended to conform to H.R. 3743); 134 Cong. Rec. H3468-3472 (daily ed. May 23, 1988) (House floor debate and passage of conference committee substitute for S. 1539); 134 Cong. Rec. S7506-7512 (daily ed. June 9, 1988) (Senate floor debate and passage of conference committee substitute for S. 1539). The Senate Report, however, opines that under the disqualification procedure the "employee would be entitled to a complete, on-the-record hearing." S. Rep. No. 100-153, 100th Cong., 2d Sess. 9-10 (1988).

While the nature and scope of the hearing required in disqualification proceedings is not defined in the RSIA, it is clear that the RSIA contemplates that fact finding and discretion shall be vested in the agency. FRA believes, therefore, that it is essential to promulgate procedures that assure the prompt and efficient conduct of disqualification proceedings under the statute, afford administrative due process to those against whom such proceedings are initiated, and lead to the creation of a record in each individual proceeding that will form the basis for judicial review in the United States District Court without a trial *de novo* of the relevant facts. For those reasons, the procedures for formal hearings set forth under 5 U.S.C. 554, 556 and 557 have been adopted in this rule.

Legislative Background

Section 3(a)(4) of the RSIA, which amends section 209 of the Federal Railroad Safety Act of 1970 (FRSA) (to be codified at 45 U.S.C. 438(f)), authorizes FRA, as delegated by the Secretary, to issue orders disqualifying railroad employees, including supervisors, managers, and other agents from performing safety-sensitive functions in the rail industry. Before such an individual may be disqualified, he or she must receive notice alleging (1) that he or she violated a "rule, regulation, order, or standard" issued by FRA under the Federal railroad safety statutes codified at Title 45, United States Code (*i.e.*, FRSA, 45 U.S.C. 421 *et seq.*; Safety Appliance Acts, 45 U.S.C. 1-16; Locomotive Inspection Act, 45 U.S.C. 22-34; Accident Reports Act, 45 U.S.C. 38-43; and the Hours of Service Act, 45 U.S.C. 61-64.), and (2) that based in whole or in part on the violation, the individual is unfit to perform safety-sensitive functions. In addition, the individual must have received an opportunity for a hearing. There is, however, one narrow exception to the notice and hearing proviso: The RSIA specifically reserves the FRA's authority under section 203 of the FRSA (45 U.S.C. 432) to issue an emergency order immediately disqualifying an individual when he or she is engaging in unsafe practices that "create an emergency situation involving a hazard of death or injury to persons."

Prior to the RSIA, FRA had no enforcement authority over an individual who violated its safety regulations. FRA's sole remedy was against the employing railroad. With enactment of the RSIA, FRA is empowered to: First, impose civil penalties against individuals for willful violations of the rail safety regulations and the Safety Appliance Acts, Locomotive Inspection Act, Accident Reports Act, Hours of Service Act, and Signal Inspection Act (RSIA sections 3(a)(3), 13(1)(F) and (2)(C), 14(7)(A), 15(4), 16(6)(A), and 17(7)(A); see also 53 FR 52918, December 29, 1988, final rule and statements of policy entitled "Amendments to Railroad Safety Regulations to Increase Standard Civil Penalty Assessment Amounts"), and second, disqualify individuals from performing safety-sensitive functions in the rail industry for violations of rail safety rules, regulations, standards or orders that evidence unfitness to perform safety-sensitive functions. RSIA section 3(a)(4).

FRA believes it is important to recognize the two categories of safety

violations that the RSIA does not address because RSIA's disqualification authority extends only to violations of regulations and orders promulgated under Title 45 of the United States Code. First, it does not authorize the agency to disqualify individuals for violations of the Hours of Service Act itself, but only for violations of the Hours of Service Act record keeping regulations set forth at 49 CFR part 228, subpart B. See 49 CFR 228.21. Second, it does not permit FRA to disqualify individuals for violations of the Hazardous Materials Transportation Act, 49 U.S.C. 1801 *et seq.*, or for the regulations and standards promulgated thereunder affecting carriage of hazardous materials by rail, 49 CFR parts 171–174 and 179. Under the Hazardous Materials Transportation Act, however, individuals may be subject to civil penalties for knowingly violating the act or a regulation issued thereunder. See 49 U.S.C. 1809.

Additionally, the RSIA does not authorize FRA to disqualify individuals for violations of regulations that do not "make (him or her) unfit for the performance of safety-sensitive functions." Although FRA cannot envision every possible ramification of violations of each of its regulations, it is probable that violations of a few regulations would not meet the statutory standard of unfitness.

Discussion of Comments and Conclusions

A total of 13 responses were received concerning the NPRM published in the December 9, 1988 issue of the **Federal Register.** At the public hearing on January 5, 1989, seven organizations participated: Three railroads (Grand Trunk Western Railroad Company, Illinois Central Railroad Company, and Chicago North Western Transportation Company), one organization representing railroads (Association of American Railroads), and three organizations representing railroad employees (Railway Labor Executives' Association, United Transportation Union, and Brotherhood of Locomotive Engineers). In addition, those organizations, with the exception of one railroad and one labor union, provided prepared statements or written comments and written comments were received from one individual (a truck driver) and five other railroads (Burlington Northern Railroad, Consolidated Rail Corporation, The Long Island Rail Road, Southeastern Pennsylvania Transportation Authority, and Union Pacific Railroad Company). Discussions follow with respect to the primary issues raised by the commenters.

1. Should there be a limitations period after which the agency may not initiate a disqualification period?

The NPRM contained no time limit for issuing a notice of proposed disqualification. Four commenters recommended that the regulations provide a time limit within which a disqualification proceeding may be initiated. One commenter requested a period no longer than one year from the date of the action giving rise to issuance of the notice. Another commenter noted that many employment law issues have six-month limitations periods (*e.g.*, employment discrimination actions under the Civil Rights Act, judicial enforcement of the Railway Labor Act, and suits for an alleged breach of a union's duty of fair representation under the National Labor Relations Act) and recommended a six-month limitation period. Two commenters did not recommend a specific limitations period, although they commented that there should be one.

FRA is not persuaded that a limitations period specific to disqualification proceedings is necessary or appropriate. The RSIA prescribes no limit on the time within which either a disqualification proceeding may be initiated or a suit for enforcement of a disqualification order may be brought. FRA is reluctant to limit by regulation the authority conferred upon it by the RSIA to initiate disqualification proceedings against individuals who are unfit to perform safety-sensitive functions in the rail industry. Of course, the general statutes of limitations applicable to government claims apply to enforcement actions by FRA. The one most likely to apply to disqualification proceedings, and the one FRA will consider applicable, is the statute of limitations for enforcement of civil penalties, which is five years from the date the violation was committed. 28 U.S.C. 2462.

As a practical matter, FRA envisions that it will strive to issue a notice of proposed disqualification against an individual within six months from the FRA's discovery of the individual's rule violation. Additionally, consideration is being given to requiring inspectors to provide railroad employees and their employers copies of inspection reports containing recommendations to initiate disqualification proceedings, thereby putting them on notice that a disqualification proceeding may be initiated. Not all recommendations, however, may result in the initiation of formal disqualification proceedings. Some may result in the issuance of warnings, as has sometimes occurred when a rule violation is serious, but not serious enough to warrant the initiation of civil penalty proceedings against individuals under 49 CFR part B for violations of regulations promulgated under the Hazardous Materials Transportation Act. Such a warning letter could be used as a factor in fashioning an appropriate disqualification order for any subsequent rule violations by the individual.

In addition, the act giving rise to the issuance of the warning could be one of a number of rule violations alleged in a subsequent notice of proposed disqualification. In other words, while the first rule violation alone did not warrant the actor's disqualification, it could, when coupled with other similar violations within, for example, a three year period, provide an adequate basis for finding an individual unfit. A multi-year pattern of rule violations and other unsafe behavior may make out a stronger case for disqualification than a single rule violation. Since Congress could have, but did not, establish a specific statute of limitations for the initiation of disqualification orders or their enforcement in the Federal courts, FRA will not do so. FRA is, however, keenly aware of the legal and practical problems associated with lengthy delays between the occurrence of an individual's rule violation and the initiation of a disqualification proceeding. FRA fully intends to honor an individual's due process rights in implementing the disqualification authority; disqualification proceedings will be initiated in a timely manner.

2. Should full discovery be provided in the proceeding?

The NPRM afforded limited prehearing information and evidence sharing. The Chief Counsel is required to provide respondent, with the notice of proposed disqualification, the material that supports the charges. NPRM and final rule, § 209.305(c). Requests for admission are permitted. NPRM, § 209.317; final rule, § 209.6. A prehearing conference is required at which, among other things, the parties may exchange witness lists and hearing exhibits. NPRM, § 209.323; final rule, § 209.319. Depositions could be introduced at the hearing when a witness was unavailable (NPRM, § 209.321) and subpoenas requiring the attendance of a witness or the production of documents or other tangible evidence may be issued by the presiding officer (NPRM, §§ 209.7 and 209.319; final rule, §§ 209.7 and 209.317).

Three commenters proposed that, in the interests of fairness, the Chief Counsel provide respondent with evidence acquired after issuance of the notice. Four commenters proposed broad discovery, as provided by the Federal Rules of Civil Procedure for judicial proceedings in United States District Courts—*e.g.*, depositions, interrogatories, requests for production of documents and things, and requests for admissions. One recommended a discovery procedure similar to that of the United States Merit Systems Protection Board (MSPB) (which adjudicates appeals from federal employees who are, *inter alia*, removed or suspended from the federal service), which permits discovery by any method provided by the Federal Rules of Civil Procedure.

FRA agrees to the first comment, and § 209.305(c) now requires the Chief Counsel to provide respondent copies of any evidence acquired after issuance of the notice. See the text of the rule and the accompanying discussion, *infra*. Under § 209.319(a) the presiding officer is required to conduct the prehearing conference at least ten days before the hearing to allow the parties time to deal with any issues, exhibits, or witnesses identified at the conference. See the text of the rule and the accompanying discussion, *infra*.

Discovery is not required by law in formal agency hearings. *Pacific Gas and Electric* v. *Federal Energy Regulatory Comm'n*, 746 F.2d 1278 (D.C. Cir. 1979). However, some discovery is arguably warranted if its refusal would deny respondent due process. *McClelland* v. *Andrus*, 606 F.2d 1278 (D.C. Cir. 1979). The intent of these regulations is to provide for a fair yet expeditious and relatively inexpensive procedure to adjudicate the charges set forth in the notice of proposed disqualification. FRA believes that the efficient use of requests for admission, the prehearing disclosure of evidence underlying the notice of proposed disqualification, and the exchange of witness lists and exhibits at the prehearing conference more than satisfy an individual's due process rights.

However, in the final rule FRA goes further by permitting the use of discovery depositions when ordered by the presiding officer upon a showing of good cause. See the text of section 209.8 and the accompanying discussion, *infra*. The final regulation still directs that disqualification proceedings be conducted as expeditiously and as economically as possible. See § 209.313(a). For example, a deposition will not be permitted if the request is unduly expensive in light of the needs of the case and resources of the parties. See § 209.8(b)(2). Further, discovery must generally be conducted within 90–120 days following receipt of an individual's request for a hearing. See § 209.313(c).

In summary, with the intent of providing a fair, expeditious, and economical proceeding, the final rule permits discovery within a specified time period by deposition, request for production of documents and other tangible evidence, and request for admission; requires that respondents be provided copies of any evidence acquired after issuance of the notice of proposed disqualification; and requires that prehearing conferences be conducted 10 days before the hearing.

3. After it is proven that the respondent committed a violation, is shifting the burden of proof to the respondent to prove his fitness contrary to law? Is a *per se* rule that a willful violation makes a person unfit contrary to law?

The NPRM proposed that proof of a non-willful rule violation establishes a rebuttable presumption that the respondent is unfit to perform safety-sensitive functions. Once proof of a rule violation was adduced, the burden would shift to the respondent to prove his or her fitness. The NPRM also proposed that proof of a willful violation establishes a conclusive presumption that the respondent is unfit.

Five commenters, both labor organizations and railroads, argued strongly that the rebuttable presumption of unfitness for a non-willful rule violation was contrary to the FRA's burden of proof under RSIA. Two commenters, a labor organization and a railroad, commented that a *per se* rule that a willful violation proves a respondent's unfitness is unfair and contrary to the RSIA.

While FRA does not agree that the presumptions proposed were contrary to law, after careful consideration it has withdrawn this portion of the proposal. The presumptions do appear to impose unnecessarily heavy burdens on the respondent in disqualification proceedings.

Section 209.329(a) of the final rule provides that a willful violation of certain regulations establishes a rebuttable presumption of unfitness. In this situation, the burden of proof would not shift to the respondent. As discussed in Fed. R. Evid. 301, the presumption would impose on respondent the burden of going forward with evidence to rebut the presumption. The burden of proof, which the agency meets upon proving a willful violation, remains at all times with the agency. See the text of the rule and the accompanying discussion, *infra*.

4. Is the standard of proof, preponderance of the evidence, appropriate for proving respondent's unfitness?

The NPRM proposed that FRA be required to prove respondent's unfitness and the appropriateness of the disqualification order by a preponderance of the evidence.

Two organizations commented that the proposed standard of proof was too low. One recommended a clear and convincing evidence standard, a higher standard commonly found in denaturalization proceedings and certain cases under the due process and equal protection clauses of the Constitution. The other commenter stated that the standard should be even higher. It proposed the same standard as that employed in criminal proceedings—beyond a reasonable doubt. Other commenters noted that there is no evidentiary standard in railroad disciplinary hearings. One commenter stated that the evidentiary standard for review of a railroad disciplinary action by a Public Law Board, which involves a record review only, was substantial evidence.

FRA will adopt the preponderance of the evidence standard. That standard is the most common evidentiary standard employed in civil proceedings. For example, it is the standard used for removing and suspending federal employees for misconduct. 5 U.S.C. 7512, 7513, and 7701(c)(1)(B). It is higher than the standard employed for removing and demoting such employees for unacceptable performance. 5 U.S.C. 7701(c)(1)(A). No persuasive reasons were given for establishing a higher standard of proof. The disqualification of a person, while an extremely serious matter, is not analogous to criminal sanctions or deportation proceedings. Given the apparent lack of an evidentiary standard in railroad disciplinary proceedings, the absence of any compelling need for a higher standard, and the need to remove unfit employees from the work force, the standard proposed is both fair and satisfactory.

5. Should the employer railroad be a party to a disqualification proceeding?

The proposed rule identified the parties as the Chief Counsel and the individual. No provision is made for including the railroad that employed the respondent at the time of the alleged rule violation as a party or permitting it to intervene.

Three organizations commented that the employer railroad should be a party to the proceeding. They believe the results and record of a proceeding could be used against them in labor arbitration, employee discrimination, or Federal Employers' Liability Act proceedings. As a consequence, they argue that the employer railroad is a real party in interest to disqualification proceedings. One commenter opined that the participation of the railroad as a party may be appropriate at some unspecified times, but that the railroad should only be permitted to intervene by motion for good cause shown. One commenter vigorously opposed the participation of the railroad as a party in a disqualification proceeding.

FRA adopts the NPRM proposal that the parties to the proceeding are the Chief Counsel and the individual. The participation of the railroad could unduly complicate and lengthen the proceeding without providing a benefit to the public. There is nothing in the regulations to prevent the employer railroad from representing the employee, whether contract or managerial, or to otherwise assist in the employee's defense. Further, railroad personnel may be called (by either side) via subpoena to testify at the hearing. Since the employers are not parties to the proceeding, railroad counsel should be able to prevent a disqualification determination from being introduced or, at least, limit its evidentiary value in unrelated proceedings. Note in this regard § 209.301(c), which clearly states that disqualification determinations shall have no effect on subsequent railroad disciplinary proceedings.

Some commenters requested that the Chief Counsel provide a copy of a notice of proposed disqualification to the railroad, so that the railroad would have notice of disqualification proceedings initiated against its employees. FRA has decided to adopt this proposal. It will provide a copy of the notice to the individual's employing railroad. See § 209.305(d).

6. Should FRA retain discretion to initiate disqualification proceedings for violations of any rules, regulations, orders, or standards?

Under the proposal, FRA would retain the discretion to initiate a disqualification proceeding for a violation of any of its regulations. FRA's burden of proof, however, is to establish that such rule violation "make(s) the individual unfit for the performance of safety-sensitive functions." RSIA, section 3(a).

Five commenters opined that there should be a threshold standard before a disqualification action may be initiated for a rule violation. One stated that the standard should be the same as the one employed for issuance of an emergency order under the FRSA—*i.e.*, "that an * * * unsafe practice * * * create(s) an emergency situation involving a hazard of death or injury to persons." 45 U.S.C. 432(a). Two organizations commented that disqualification actions were only appropriate for violations that cause a serious safety hazard. The third commenter remarked that such actions should be taken only for willful and flagrant violations that evidence gross misconduct and that could result in catastrophic incidents. The fifth commenter proposed that such actions be taken only when a rule violation causes an accident reportable under 49 CFR part 225.

The first commenter's proposal, endorsing the emergency order standard, is not appropriate. The RSIA expressly reserves FRA's authority to exercise its power under 45 U.S.C. 432(a). To use the same standard in determining an employee's unfitness in a disqualification proceeding would nullify that statutory reservation of power. The second suggestion is not desirable because, while the prevention of serious safety hazards is certainly a reason for disqualifying an individual, defining a general standard of "seriousness" is not feasible. Whether a specific rule violation could pose a "serious" safety hazard is best left to a case-by-case determination. The third recommendation is unacceptable because it would impose an inordinately high standard of misconduct coupled with the potential for an undefined "catastrophic" accident before a person could be disqualified. The RSIA specifically provides that individuals may be disqualified for non-willful violations of regulations. There is no compelling reason to limit arbitrarily FRA's disqualification authority to the commission of willful violations only. Finally, the last comment would impose an undesirable and excessively high threshold—that a person's rule violation cause an accident. It is in the public interest to identify and prevent unfit persons from performing safety-sensitive functions before they cause accidents, not after.

FRA, therefore, does not adopt any of the foregoing suggestions and, as proposed in the NPRM, retains its discretion to initiate disqualification proceedings for violations of any of its regulations. The statutory burden of proof—that the employee is unfit to perform safety-sensitive functions—the requirement under § 209.329(b) to consider the relevant factors in determining an individual's unfitness, and personnel and financial resources necessary to prosecute a disqualification, should impose sufficient checks on FRA to prevent an abuse of discretion. Public safety demands that FRA use its discretion wisely and judiciously. Further, it is in the public interest to place railroad employees on notice that disqualification proceedings could be initiated for any rule violation. Their potential liability should serve as an additional deterrent to the commission of such violations.

7. Should an administrative appeal of a presiding officer's decision be permitted by either party?

The NPRM proposed that the decision of the presiding officer would be final. No appeal within the agency would be permitted by either the respondent or the Chief Counsel. FRA, however, specifically invited comments on whether the individual or the Chief Counsel, or both, should be allowed to appeal a presiding officer's decision to the FRA Administrator—if the Administrator was not involved in the issuance of the notice of proposed disqualification—or to some other Departmental official if the Administrator was involved in the issuance of the notice. 53 FR 49695, 49699.

No commenter expressly recommended that an administrative appeal of a presiding officer's decision should not be permitted. One commenter suggested the individual be permitted to appeal a presiding officer's decision. Two commenters recommended that any of the parties, which they suggested should also include the employer railroad, should be allowed to appeal. None of the commenters identified a person to whom the appeal should be made.

The principal benefits of the absence of an appeal are the presence of a relatively inexpensive forum and the expeditious issuance of a final decision and order. The major detriments are the lack of administrative review of the presiding officer's decision and the absence of the development of any agency precedent. The advantages of an administrative appeal include the ability to develop agency precedent with respect to its determinations of rule violations and other factors that evidence a railroad employee's unfitness to perform safety-sensitive functions and the appropriate remedial sanctions that should be taken by the agency to protect the individual's coworkers, other railroad employees, and the public. Given the fact that the rule does not

provide a schedule of offenses and penalties for disqualification actions, it is extremely important that the agency develop the foundation necessary for building a cohesive, consistent body of agency precedent on those issues. In addition, a party will have the opportunity to seek redress of any perceived injustice imposed by the presiding officer's decision.

The disadvantages of providing an administrative appeal include a more time-consuming process for final adjudication of the charges against the individual—the individual would not be disqualified while an appeal is pending (see § 209.325(b)). Also, there is the concomitant risk that an unfit individual would be permitted to continue work in safety-sensitive activities pending final disposition of the case.

On balance, however, FRA believes that the advantages of an administrative appeal outweigh its disadvantages. Disqualifying a railroad employee from performing safety-sensitive functions is a very serious and sensitive matter. It may result in the employee's loss of income and the loss of the employee's services to the railroad. He or she should be permitted the opportunity to seek administrative review of an initial decision recommending his or her disqualification. Further, in the interests of public safety, the Chief Counsel should be permitted the opportunity to contest a dismissal order or an inadequate disqualification order.

For the foregoing reasons, FRA has decided to provide the opportunity for review of a presiding officer's decision within the agency, and permit either the Chief Counsel or the individual to appeal that decision to the Administrator. See §§ 209.323 through 209.327. Pursuant to the separation of functions prohibition of the Administrative Procedure Act (5 U.S.C. 554(d)), no agency employee who is involved in investigating or prosecuting the charges against an individual shall participate in the final decision. FRA does not envision the participation by the Administrator at any stage of the proceedings prior to appeal, including the thereshold decision to issue the notice of proposed disqualification. However, if the Administrator is involved in a decision to initiate a proposed disqualification or in any decision on behalf of the agency during the pendency of the proposed action, the Administrator shall recuse himself or herself from rendering a decision, and the appeal shall be referred to an agency official who was not previously involved in the case. Further, any FRA employee who was involved in issuing or prosecuting the proposed disqualification shall not participate in the decision on appeal.

8. Should FRA maintain a roster of disqualification orders, past and/or current and act as a clearinghouse for railroads who are contemplating hiring or retaining an individual?

The proposed rule, which remains substantively unchanged, seeks to enforce disqualification orders by requiring: (1) A railroad employing or formerly employing a disqualified individual to disclose the terms and conditions of the order to the individual's new or prospective employer railroad; (2) a railroad considering hiring an individual in a safety-sensitive position to inquire from the individual's prior employer railroad whether the individual is serving under a disqualification order; and (3) a disqualified individual to inform his employer of the disqualification order and provide a copy of it to the employer and to inform a prospective employer railroad of the disqualification order and provide a copy thereto. NPRM and final rule, § 209.331. Additionally, the proposed regulation prohibits a railroad from employing a person serving under a disqualification order in a safety-sensitive position and prohibits such a person from working in such a position. NPRM and final rule, § 209.333. Finally, the proposed regulation imposes civil monetary penalties on railroads and individuals and authorizes a more severe disqualification for individuals violating the disclosure requirements and/or committing the specified prohibited acts. NPRM and final rule, § 209.335. Two commenters suggested that FRA retain a listing of disqualified employees. One stated that it should include only disqualification orders in effect. The other recommended that it include all disqualification orders imposed, both current and expired. Neither proposal is acceptable. The latter confuses the purpose of §§ 209.331 through 209.335, which is to enforce disqualification orders in force, not to serve as a repository for previous actions. The former proposal raises some unresolved Privacy Act issues, and it would impose additional administrative burdens on the FRA. FRA believes that the disqualification order enforcement procedure, as proposed and adopted, does not impose hardship on the railroads or the employees involved.

9. Is it proper for FRA to disqualify an individual from performing safety-sensitive functions without the existence of FRA-mandated qualification standards for such individuals?

Two commenters observed that FRA has promulgated no qualification standards for safety-sensitive functions. They argued that, because certain railroads allegedly require employees to perform safety-sensitive functions without adequate training, on such individuals due process rights could be infringed by disqualification. FRA respectfully disagrees with that proposition.

Whether FRA has or has not promulgated standards for railroad employee qualifications related to safety, as permitted by section 202(a) of the FRSA (45 U.S.C. 431(a)), is not germane to its authority granted under the RSIA to disqualify railroad employees for violating FRA rules. Lack of training in the FRA regulations applicable to an employee's duties may be viewed as an affirmative defense to charges that an employee committed a willful violation or a mitigating factor in fashioning an appropriate disqualification order for a violation. It is essential to recognize, however, that a person who lacks the training necessary to perform his or her safety-sensitive duties in compliance with FRA regulations is likely to be unfit to perform such duties. It is certainly not in the public interest to retain an unqualified person in a safety-sensitive position simply because he or she alleges (or proves) that the railroad failed to provide adequate training. Moreover, FRA retains the power to order any necessary training under sections 202(a) and 208(a) of the FRSA (45 U.S.C. 431(a) and 437(a)). The reason for disqualifying a person who is unfit is not to discipline the person. It is to protect his or her life, co-workers' lives and health, and the lives, health, and property of other persons.

Section-by-Section Analysis

The final rule contains substantial revisions in response to the written comments received, the testimony at the public hearing, and further review and reflection within FRA. Where the section citation in the final rule differs from that in the NPRM, the latter citation is also provided.

1. Technical amendments are made to various sections of part 209, subpart A, to conform the general provisions for railroad safety enforcement proceedings applicable to subparts B (assessment of penalties under the Hazardous Materials Transportation Act) and C (issuance of compliance orders), and new subpart D (disqualification proceedings) is added. Specifically, §§ 209.1, 209.3, 209.7, 209.9, 209.13, and 209.15 are amended to reflect the

inclusion of subpart D within part 209. Section 209.3 also includes a revised definition of "respondent" and definitions for the terms "motion," "presiding officer," "day," and "pleading." Section 209.5 is amended to permit service by first-class mail of motions and requests for admissions and to require that a certificate of service accompany each pleading filed with the agency. Section 209.7 is further amended to clarify that, once a proceeding under subparts B, C, or D has begun, a subpoena or subpoena duces tecum requiring the production of documents or other tangible evidence may be issued only by the presiding officer. (Prior to institution of formal proceedings or in the context of enforcement actions not requiring formal administrative hearings, the Chief Counsel retains the right to issue subpoenas, including deposition subpoenas, on his or her own initiative.)

Proposed §§ 209.315, governing motions, and 209.317, governing requests for admission, have been moved from subpart D to subpart A and redesignated §§ 209.17 and 209.6, respectively, because they set forth general procedural requirements applicable to all three railroad safety enforcement proceedings covered in 49 CFR part 209: hazardous materials penalties (subpart B), compliance orders (subpart C), and disqualification proceedings (subpart D). Proposed § 209.321, governing depositions, was substantially revised, moved to subpart A, and redesignated § 209.8. In formulating rules for depositions pertaining to subpart D actions, FRA decided that to avoid confusion the requirements appropriate to depositions should be equally applicable to proceedings under subparts B and C.

2. Section 209.6 (proposed as § 209.317) governs the procedures for obtaining requests for admission of facts, the genuineness of documents, and the application of law to facts. Requests for admission do not involve the participation of the presiding officer unless the parties cannot resolve compliance issues that may arise. Sworn answers to requests for admission or objections must be served within 30 days after receipt of the request. Failure to answer or object within that time period will result in an admission of the matter requested. Objections to requests may be tested by filing a motion to compel with the presiding officer who has the authority to compel an answer. Any matter admitted that is entered into the record is conclusively established.

3. Section 209.8 (proposed as § 209.321) governs the procedure for requesting, obtaining, and using depositions of witnesses in discovery or at the hearing. As previously discussed, this section was substantially revised to permit the taking of depositions as a discovery tool. Depositions may be used in the proceeding to contradict or impeach the testimony of the deponent as a witness. A deposition may also be used in the proceeding as evidence of the matters asserted therein, subject to valid objections made at the deposition and later sustained by the presiding officer, and as permitted by Fed. R. Civ. Pro. 32 applied as though it were applicable to such proceedings on its face. Depositions may be taken of parties, and in conjunction with the requirements of section 209.7 governing subpoenas, of any other persons.

Depositions may be taken only for good cause after a proper motion is granted by the presiding officer and an appropriate order is entered. The rule states that "good cause" exists when the information sought is relevant to the subject matter involved in the proceeding and (1) not obtainable from some other source that is more convenient, less burdensome, and less expensive or (2) not unreasonably cumulative, unduly burdensome, or unduly expensive, taking into account the needs of the case, limitations on the parties' resources, and the importance of the issues in the case. See § 209.8(b).

Objections to motions for depositions are governed by § 209.17. The rule requires the presiding officer when granting a motion for deposition to give ten days' notice before the date of the deposition. The parties may agree to a shorter period. The time frame within which depositions may be taken in disqualification proceedings under part D is set forth in § 209.313. See the text of the rule and the accompanying discussion, *infra*.

4. Section 209.17 (proposed as § 209.315) specifies the procedures for filing written motions (defined in § 209.3(f)) and objections thereto. Objections must be filed within 10 days from receipt of the motion. The presiding officer may modify the time limit for objecting and rule on oral motions. No time limit is prescribed for filing motions. If that becomes an issue in a proceeding, the presiding officer has the authority to make appropriate rulings.

5. Section 209.301 states the purpose for subpart D, *i.e.*, the establishment of the rules of practice for disqualification proceedings of railroad employees and agents from safety-sensitive functions in the rail industry. It is the view of FRA that railroad accidents caused, directly or indirectly, by violations of safety regulations may be prevented or avoided by disqualifying individuals who have shown themselves to be unfit to perform the safety-sensitive functions described in § 209.303. Two purposes would be accomplished by suspending or barring such an individual from these functions in the rail industry: First, the person would be prevented from further violating safety regulations and the railroad's rules; and second, the person's suspension would serve to deter him or her and other railroad employees and agents from committing future violations. In the most serious cases, permanent disqualification could be deemed appropriate.

The exercise of FRA's disqualification authority does not supersede the railroad's independent disciplinary authority or any employee's rights secured under a collective bargaining agreement for review of a disciplinary action imposed under the railroad's independent authority. Those rights would not be applicable, of course, to a suspension imposed by FRA under this rule. Disqualification determinations and concomitant disqualification orders are not intended to have any influence on subsequent disciplinary proceedings or any sanctions by railroads against their employees. Further, a disqualification proceeding may not serve as a forum for a railroad employee to challenge a prior disciplinary action that may have been taken for a violation of the FRA regulation that is the subject of the disqualification proceeding.

FRA's disqualification authority is both narrower and broader than discipline imposed by a railroad on an employee. It is narrower in the sense that an employee may be disqualified only from performing safety-sensitive functions; the employee may remain in an active status with the railroad performing functions that are not designated as safety-sensitive. In a railroad disciplinary proceeding, however, an employee may be suspended without pay from his or her position. FRA's disqualification authority is broader in the sense that FRA may bar a railroad employee from performing safety-sensitive functions with any railroad, not just the employee's present employer. In summary, an FRA disqualification order is independent of any disciplinary action that may be taken by a railroad against an employee for violating an FRA regulation, rule, order, or standard. Likewise, a railroad disciplinary action is independent of any prior or subsequent disqualification order.

6. Section 209.303 delineates the individuals in the rail industry who may

be subject to disqualification by specifying the functions they perform. This section lists those functions that FRA views to be safety-sensitive within the meaning and intent of the FRSA, as amended by the RSIA. First, railroad employees who are assigned to perform service under the Hours of Service Act, 45 U.S.C. 61–64b, will be covered. Section 209.303(a). Employees covered by the Hours of Service Act include those engaged in or connected with the movement of any train (primarily engineers, brakemen, firemen, and conductors); those who dispatch, report, transmit, or receive orders pertaining to or affecting train movements (primarily operators and dispatchers); and those engaged in installing, repairing, or maintaining signal systems (primarily signalmen and certain electricians).

Second, railroad employees and agents engaged in inspecting, installing, repairing or maintaining track and roadbeds will be subject to disqualification for safety regulation violations. Section 209.303(b)(1). Third, employees engaged in inspecting, repairing, and maintaining locomotives, passenger cars and freight cars will be covered. Section 209.303(b)(2). Fourth, employees who conduct training and testing of other employees required by FRA's safety regulations will be covered. Section 209.303(b)(3). Fifth, railroad supervisors, managers, or agents who supervise or perform the foregoing safety-sensitive functions will be subject to disqualification for safety regulation violations. Section 209.303(c)(1)–(2). Sixth and finally, supervisors, managers, or agents who are in a position to direct the commission of violations of FRA safety regulations may be disqualified from performing any of the foregoing functions and serving in any position in which they would have the ability to direct subordinates to violate safety regulations. Section 209.303(c)(3).

Section 209.303(c)(3) does not impose vicarious liability on supervisors or managers for the rule violations of their subordinates. Such liability is not authorized under the RSIA. A supervisor and a manager may be disqualified from the functions described thereunder when he or she violates an FRA rule, regulation, order, or standard. Moreover, the legislative history of the RSIA shows Congress' intent that railroad supervisors and other managerial officials may be held liable for civil penalties for directing subordinates to violate the law. See the statement of Senator Exon, one of the primary sponsors of the RSIA, at 133 Cong. Rec. S15899 (daily ed. November 5, 1987) (cited in appendix A to part 209—Statement of Agency Policy Concerning Enforcement of the Federal Railroad Safety Laws, 53 FR 52920, 52922, December 29, 1988). Under FRA's regulations, therefore, an individual "is liable for a civil penalty for a willful violation of, or for willfully causing the violation of, the safety statutes or regulations." Appendix A to part 209, 53 FR 52920, 52921 (December 29, 1988).

It is arguable that such egregious actions by railroad supervisors or managers should also subject them to disqualification. It is evident that such intolerable conduct poses an insidious threat to rail safety and renders the culpable supervisor or manager unfit to perform safety-sensitive functions. FRA will decide on a case-by-case basis whether to initiate a disqualification action and/or impose a civil penalty for such conduct.

It is FRA's position that a person who is disqualified from performing safety-sensitive functions will be disqualified from performing all of the foregoing functions listed, not just the ones inherent to his or her job class. For example, a disqualified engineer may not perform work for any railroad in any of the other safety-sensitive functions described. Nor may a supervisory track inspector supervise track inspectors or perform such inspections, or any of the other enumerated safety-sensitive functions, for any railroad. The engineer and the supervisor could remain in an active duty status with their employing railroad in a position that does not require the performance of safety-sensitive functions. The rule, however, neither precludes nor requires reassignment to a position that is not safety-sensitive.

7. Section 209.305 sets forth the action that initiates a disqualification proceeding. The FRA Chief Counsel, after an initial determination that an alleged violation of a safety regulation establishes that an individual is unfit to perform safety-sensitive functions, issues a notice of proposed disqualification to the individual. The Chief Counsel also provides a copy of the notice to the respondent's employing railroad. Paragraph (b) of this section defines the contents of the notice to include: A statement of the rule, regulation, order, or standard allegedly violated (*e.g.*, identification of the regulation violated, the date of the violation, and a brief description of the underlying facts); the factual allegations supporting the initial determination that the individual is unfit to perform safety-sensitive functions (*e.g.*, identification of the relevant factors cited in § 209.329 and underlying facts in support thereof, which form the basis for the terms and conditions of the disqualification order); the terms and conditions, including effective dates, of the proposed disqualification order (*e.g.*, the duration and effective dates of any suspension or, if termination of a suspension is conditioned upon a subsequent event other than the passage of time (completion of prescribed training, rehabilitation, respondent's application for permission to return to safety-sensitive service, etc.), identification of the event, if any, that will permit the individual to resume performance of safety-sensitive functions); and notice of the consequences of the individual's failure to reply to the charges.

Paragraph (b) also requires that the notice advise the individual of his or her rights: To answer the charges in writing and provide supporting documentary evidence; to make an informal response to the Chief Counsel; to request an evidentiary hearing; and to be represented by counsel or other designated representative.

Paragraph (c) requires the Chief Counsel to provide along with the notice a copy of the material supporting the charges. The material relied on generally will include a copy of an FRA safety inspector's violation report and supporting exhibits, and may include other non-privileged information. Nothing in this section precludes the Chief Counsel from presenting at a subsequent hearing under § 209.325 any evidence of the charges set forth in the notice that the Chief Counsel acquired after service thereof upon the respondent. The Chief Counsel is required, however, to furnish the respondent such after-acquired evidence at or, if feasible, before the prehearing conference required under § 209.323. Failure to provide respondent such evidence when required would preclude its introduction at the hearing. Any disputes between the Chief Counsel and the respondent concerning after-acquired evidence could be tested by a motion to strike the evidence.

8. Section 209.307(a) describes the individual's reply rights to a notice of proposed disqualification and prescribes the time limit for submitting the reply and the basis for requesting extensions. Within 30 days after receipt of service of the notice of proposed disqualification, the individual must reply in writing to the charges, and he or she may submit documentary evidence in support of the reply. In addition to submitting a written reply, the individual may make an informal response to the Chief Counsel or request an evidentiary hearing. The

individual may, of course, decide to forgo submitting a written reply and stipulate to the charges and consent to imposition of the disqualification order set forth in the notice. In any event, FRA believes that the interests of all parties will be best served by the efficient, expeditious conduct of these proceedings. The individual against whom charges have been made deserves a prompt determination as to his or her fitness, and the public safety demands no less.

Although it is the FRA's policy to disfavor extension requests, the Chief Counsel may extend the reply period under paragraph (b) when the Chief Counsel concludes, for example, that the individual's right to reply to the notice would be materially impaired if the extension were denied.

Paragraph (c) prescribes the adverse consequences of an individual's failure to reply in writing to a notice of proposed disqualification. Specifically, it will be treated as a waiver of the individual's right to contest the charges or the disqualification order. In that event, the Chief Counsel may find the individual unfit, issue and serve him or her with the disqualification order, and provide a copy of the order to the railroad by which the individual is employed. FRA realizes that this is a severe penalty for failure to file a reply. However, FRA believes that treating a respondent's failure to file a reply as a waiver and imposing a disqualification order consistent with the scope and duration of the notice will discourage a person from ignoring a notice and encourage a person who legitimately disputes the allegations in a notice to reply.

9. Section 209.309 prescribes the procedures for an informal response to a notice of proposed disqualification. The objective of the informal response provision is to provide an opportunity for the charged employee to settle the charges without resort to litigation. If a settlement is not achieved, the parties may at least narrow their differences on the unresolved issues and disputed facts. An individual who elects to make an informal response may submit information, including exculpatory material, mitigating factors, or extenuating circumstances, or discuss the matter with the Chief Counsel or designated staff attorney. See § 209.309(a) and (b).

Based on the individual's written response and information provided at any conference, the Chief Counsel will consider the issues raised in the notice of proposed disqualification and take one of the following actions: Dismiss the charges and notice of proposed disqualification; dismiss some of the charges and mitigate the proposed disqualification; mitigate the proposed disqualification; or sustain the charges and the proposed disqualification. See § 209.309(d). Should the Chief Counsel sustain, in whole or in part, the charges and proposed disqualification and reach settlement of the charges with the respondent, the Chief Counsel shall issue an appropriate disqualification order. No order, however, shall be issued unless the individual consents to the imposition of the disqualification and waives, in writing, his or her right to a hearing. See § 209.309(e). If the parties are unable to reach a settlement within 30 days of service of the individual's reply upon the Chief Counsel, the Chief Counsel will terminate negotiations by serving respondent written notice of termination of settlement negotiations. See § 209.309(f).

The individual does not waive his right to a hearing by filing a written response to the charges and requesting a conference with the Chief Counsel. Within 10 days after receipt of the notice of termination of settlement negotiations, the individual may exercise that right. Failure to request a hearing within that period, however, does constitute a waiver of the respondent's right to a hearing. Section 209.309(g). Although it is the FRA's policy to disfavor extension requests, the Chief Counsel may extend the period under paragraph (g) for good cause shown. Section 209.309(h)

10. Paragraph 209.311 governs an individual's request for a hearing. Under paragraph (a), an individual who requests a hearing must do so within 30 days after receipt of the notice of proposed disqualification or, if the individual pursues an informal response, within 10 days after receipt of the notice of termination of settlement negotiations. The written request must be signed by the individual and include, at a minimum, the following information: Name, address, and phone number of the individual and his or her representative, if any; a specific response to the charges, admitting, denying, or explaining each allegation contained in the notice of proposed disqualification; and a description of the claims and defenses, that the individual intends to raise at the hearing. A defense raised at the prehearing conference or the hearing, which was not identified in respondent's hearing request, will be subject to a motion to strike by the Chief Counsel. Absent compelling reasons, the motion should be granted.

Since discovery in these proceedings is limited, full disclosure of all claims and defenses should be made early in the proceedings. The Chief Counsel is limited to proving the charges and the propriety of the terms and conditions of the proposed order set forth in the notice of proposed disqualification, or lesser charges or a less severe disqualification order if any charges are terminated after respondent's informal response under § 209.309. No new charges may be added, nor may a more severe disqualification order be proposed after such notice is served on the respondent. It is only fitting that the respondent is bound by claims and defenses that are raised in his or her request for a hearing.

Under paragraph (b), upon receipt of a proper hearing request, the Chief Counsel shall arrange for the appointment of a presiding officer. Presiding officers for disqualification hearings will be Administrative Law Judges, normally from the Department's Office of Hearings, who are assigned cases by the Chief Administrative Law Judge. The presiding officer assigned retains the authority to schedule the hearing.

Questions have been raised concerning the role, if any, of the presiding officer in the settlement of proposed disqualifications. Paragraph (c) provides that the Chief Counsel and the respondent in a case pending before a presiding officer may agree to settle or dismiss a case without the approval of the presiding officer. The Chief Counsel will promptly inform the presiding officer when a case is settled or dismissed.

11. Section 209.313 contains general provisions governing discovery. There was no counterpart in the NPRM because FRA proposed to limit the methods of discovery permitted to requests for admission (NPRM, § 209.317; final rule, § 209.6) and requests for production of documents and tangible evidence by subpoena under § 209.7. As discussed in part 3 of this section, however, in addition to those discovery devices, FRA decided to permit the taking of depositions. With the addition of that discovery device, FRA decided that limited controls had to be imposed over the discovery scheme to avoid unnecessary delays in achieving a final outcome in the proceeding and to minimize the potential for abuses in the discovery process.

Paragraph (a) sets forth the FRA's concern that disqualification proceedings be conducted as expeditiously as possible with due regard to the rights of the respondent and the Chief Counsel. Discovery should be employed only as necessary for a

party to obtain relevant information necessary for the preparation of his or her case. It should not be used by a party as a fishing expedition, nor should it be used as an offensive weapon to delay the proceeding or to harass a party's opponent. On the other hand, legitimate discovery requests and orders should be complied with in a timely manner. The discovery scheme set forth in these regulations is intended to be simple, timely, and relatively inexpensive. The reasonableness of any requests for discovery should be evaluated by those precepts, as well as the requirements established in the applicable sections for a specific discovery tool. See §§ 209.7 (subpoenas), 209.6 (requests for admission), and 209.8 (depositions).

Discovery may be initiated only after the respondent requests a hearing under § 209.311. See paragraph (c). Discovery is not permitted during a respondent's informal response to the notice of proposed disqualification under § 209.309. The objective of the informal response is to settle the charges against respondent without resort to litigation. To permit discovery during that phase of the proceedings could be disruptive and would be inimical to that objective.

Paragraph (d) provides strict timeframes for the conduct of discovery. Generally, discovery must be completed within 90 days after respondent requests a hearing. Upon motion for good cause shown, however, a 30-day extension may be granted by the presiding officer. Further, in what FRA believes will be an extremely rare situation, an additional 30-day extension may be granted when the party requesting the extension shows by clear and convincing evidence that the party was unable to complete discovery within the 120-day time period permitted through no fault or lack of due diligence of such party, and that denial of the request would result in irreparable prejudice.

Paragraph (e) provides a method to compel a party to comply with discovery requests approved by the presiding officer through an order to compel—*e.g.*, an order to provide answers to specific questions posed in a deposition—or discovery orders—*e.g.*, an order directing a person to submit to a deposition under § 209.8. Sanctions that may be imposed by a presiding officer are limited to the particular failure of the party. This will avoid complete dismissal of the case based solely on the Chief Counsel's failure to participate in discovery. Similarly, a disqualification order will not be issued based solely on a respondent's failure to participate in discovery.

12. Section 209.315 (proposed as § 209.319) provides that only the presiding officer may issue subpoenas under § 209.7 after disqualification proceedings have been initiated by the issuance and service of a notice of proposed disqualification under § 209.305.

13. Section 209.317 (proposed as § 209.313) specifies the material comprising the official record in each disqualification proceeding—*i.e.*, notice of proposed disqualification, reply, exhibits, hearing transcript, pleadings, stipulations, admissions, rulings, and orders. If no hearing is held because a settlement is reached and a stipulated disqualification order is issued, the record would consist of the settlement agreement, the order, the notice of proposed disqualification, supporting documentation (generally a violation report with supporting exhibits), and the individual's reply.

14. Section 209.319 (proposed as § 209.323) establishes the requirement for, and the minimum subject matter of, a prehearing conference, which must be conducted within 150 days of respondent's request for a hearing under § 209.311. One of the primary purposes of a prehearing conference is to shorten the hearing, or eliminate it if settlement is achieved. Since discovery is limited in disqualification proceedings, it also gives the parties an opportunity to simplify the issues, enter into stipulations, and exchange witness lists and exhibits that are approved by the presiding officer. Because it will be conducted at least 10 days before the hearing, the parties will have adequate time to deal with any issues or evidence raised at the prehearing conference. For example, any evidence acquired by the Chief Counsel after issuance of the notice of proposed disqualification will be provided at the conference, if it was not provided earlier.

15. Section 209.321 (proposed as § 209.325) contains the requirements for disqualification hearings conducted by administrative law judges. Under paragraph (a), the presiding officer is required to begin the hearing within 180 days of the respondent's hearing request, and give the parties at least 20 days notice of the time and place of the hearing. The presiding officer retains the authority to determine the site of the hearing. Naturally, motions for a specific hearing site or for a change of venue may be made by the parties, usually at the prehearing conference. Also under paragraph (a), witnesses will testify under oath, a verbatim transcript of the hearing will be made, and the hearing shall be open to the public. The presiding officer retains authority to close all or any part of the hearing if he or she determines that to do so would be in the best interests of the public, the respondent, a witness, or any affected person. Any order of closure must set forth the reasons therefor. As a general rule, public hearings are in the best interests of the individual and society. There may be rare exceptions, however, when a part of the proceeding is appropriately conducted out of the public eye.

Paragraphs (b) and (e) prescribe the broad powers of the presiding officer in controlling the proceeding and conducting the hearing. The powers of the presiding officer are based on, and consistent with, the powers outlined in the Administrative Procedure Act.

Paragraph (c) sets forth the burden and standard of proof for the Chief Counsel. The Chief Counsel has the burden of production and persuasion as to the facts alleged in the notice of proposed disqualification, respondent's unfitness and the reasonableness of the terms of the proposed disqualification. However, when the Chief Counsel proves that the individual committed a willful violation of one of the requirements of 49 CFR parts 213 through 236, excluding the record keeping and reporting requirements of parts 225, 228, and 233, the individual is presumed to be unfit to perform safety-sensitive functions. See § 209.329(a). The presumption is rebuttable. It does not shift the Chief Counsel's burden of proof (*i.e.* the risk of nonpersuasion) to the respondent; it does, however, impose on the respondent the burden of going forward with evidence to rebut the presumption. The individual may, therefore, proffer evidence to rebut the finding of his or her unfitness. In addition, the individual may proffer evidence in mitigation of the proposed disqualification.

FRA's definition of a "willful" violation is discussed in detail in appendix A to part 209 of 49 CFR. See 53 FR 52918, 52921–52922, (December 29, 1988). Briefly, FRA considers a "willful" act to be one that is an intentional, voluntary act committed either with knowledge of the relevant law or with reckless disregard for whether the act violated the requirements of the law. Consequently, proof that conduct constitutes a violation does not require a showing of evil purpose (as is sometimes required in criminal law) or actual knowledge of the law. A level of culpability higher than simple negligence, however, must be established. A willful violation also requires actual or constructive

knowledge of the facts constituting the violation. It is FRA's firm belief that an individual who willfully violates a safety requirement is generally not fit to perform safety-sensitive functions in the rail industry. For example, an employee or supervisor who is responsible for providing blue signal protection to other employees and who intentionally and voluntarily fails to display a blue signal when required to do so by 49 CFR 218.25, is unfit to perform safety-sensitive functions. Similarly, a locomotive engineer who intentionally and voluntarily reports for duty under the influence of alcohol in contravention of 49 CFR 219.101(a)(2)(i) is unfit to operate a locomotive. The standard of proof for the Chief Counsel is the preponderance of the evidence, the traditional standard used in most administrative and civil judicial proceedings. For example, it is the standard of proof used in proceedings before the MSPB to remove and suspend, among other things, certain categories of employees from the federal service.

5 U.S.C. 7701(c)(1)(b). A generally accepted definition of "preponderance of the evidence" is set out in the MSPB's regulations: "* * * that degree of relevant evidence which a reasonable person, considering the record as a whole, would accept as sufficient to find that a contested fact is more likely to be true than untrue." 5 CFR 1201.56(c)(3).

Paragraph (d) sets out the respondent's hearing rights and responsibilities. The respondent may, either personally or through a representative, conduct cross-examination and offer evidence in defense of the allegations or in mitigation of the proposed disqualification. The respondent has the burden of proof, by a preponderance of the evidence, as to any affirmative defense. For example, a statutory affirmative defense to a charge that respondent's alleged violation of an FRA-prescribed rule, regulation, order, or standard was willful is to show that the violation was committed in obedience to the direct order of a railroad supervisor or other official, under protest communicated to the supervisor. See section 3(a)(3) of the RSIA.

FRA recognizes that there is language in the legislative history of the RSIA that implies it would not be appropriate to initiate a disqualification proceeding against any individual who violates an FRA regulation in obedience to a direct order from a railroad official. See the statement of Senator Exon at 133 Cong. Rec. S15899 (daily ed. November 5, 1987) (cited in appendix A to part 209—Statement of Agency Policy Concerning Enforcement of the Federal Railroad Safety Laws, 53 FR 52920, 52922, December 29, 1988). However, the statute expressly provides that a person is exonerated from a charge of willfully violating a safety regulation if he or she "acted pursuant to a direct order of a railroad official or supervisor, under protest communicated to the supervisor." RSIA, section 3(a)(3)(C). A civil penalty may only be imposed on an individual for willful violations. RSIA, section 3(a)(3)(A). Consequently, if an employee obeys a direct order that violates a regulation and protests that action to the appropriate railroad official, the employee will not be subject to a civil penalty. However, the RSIA itself does not provide, expressly or impliedly, that an individual who obeys an order will be relieved of all responsibility. For example, under the RSIA, even if a person obeyed an order to perform an act that violates a safety regulation, he or she could still be held culpable if the person did not protest the action to the supervisor who gave the order. Similarly, an individual who complied with a direct order to violate the blue signal rules resulting in the death of an employee who should have been protected by such signals may, depending on the individual's appreciation for the likelihood of such a result, have demonstrated unfitness for safety sensitive service.

Congress' purpose in giving the FRA authority to bar an individual from safety-sensitive functions was to remove the risk unfit individuals pose to their co-workers and the public. There could be egregious circumstances where an employee who obeys an order resulting in a rule violation is, nonetheless, unfit to perform safety-sensitive functions—*e.g.*, an engineer who is under the influence of alcohol is ordered to operate a locomotive and consents to do so. Hopefully, FRA will never be confronted with such a situation. But if it is, it preserves its authority to take action necessary to protect the public and the malefactor's co-workers.

16. Section 209.323 (proposed as § 209.327) prescribes the requirements for issuance and contents of the initial decision and order by the presiding officer. The decision of the presiding officer may take one of three forms: (1) Dismissal of all or some of the charges set forth in notice of proposed disqualification; (2) sustain all or some of the charges and proposed disqualification; or (3) sustain all or some of the charges, but impose a disqualification less severe than the one proposed. Paragraph (a). If the presiding officer's decision sustains any of the charges against the respondent, the presiding officer shall issue an appropriate disqualification order. If some charges are dismissed, the disqualification order shall specify which charges are dismissed. Should the presiding officer dismiss all charges, he or she shall issue a dismissal order. Paragraph (b).

In addition to including either a disqualification or dismissal order, the initial decision shall contain findings of fact and conclusions of law and the reasons therefor, which shall be based on the evidence and argument presented in the record, the terms and conditions of any disqualification order, the date the decision shall become final—35 days after issuance of the decision, unless an appeal is filed—and the parties' appeal rights to the Administrator. Paragraph (c).

Under paragraph (d), the initial decision shall be served upon the respondent and the Chief Counsel. The Chief Counsel shall provide a copy of it to the railroad who employed the individual when the notice of proposed disqualification was issued, since a copy of that notice was provided to the railroad under § 209.305. FRA recognizes that it is possible that the individual will not be employed by that same railroad when the presiding officer's decision is rendered. He or she could have one or more employers between the issuance of the notice of proposed disqualification and the issuance of the disqualification order. To obviate the Chief Counsel's need to ascertain the identity of the respondent's employer when the disqualification order is issued, it should be noted that the respondent is also required to notify his employer railroad of the issuance of such an order under § 209.331(c).

Consequently, if the individual is employed by a different railroad when the order is issued, that railroad should receive a copy of it from the individual.

17. Section 209.325 (proposed as § 209.323 (e)) describes when the initial decision rendered under § 209.325 is final. The presiding officer's decision becomes the final agency decision 35 days after its issuance, unless any party files an administrative appeal to the FRA Administrator under § 209.327. Should a party file a timely appeal, the order issued with the initial decision, either disqualification or dismissal, is stayed pending final disposition of the case on appeal. If no timely appeal is filed, the presiding officer's decision becomes the final agency action, and it is not subject to further review within

the Department. Since an appeal of an initial decision by an aggrieved respondent is permissive, rather than mandatory, the decision when final is subject to judicial review in an appropriate United States District Court under 28 U.S.C. 1331 and 5 U.S.C. 701–706.

Section 209.325 also provides that an initial decision that has not been appealed is not precedent in subsequent disqualification proceedings. Neither a presiding officer nor the Administrator is required to decide any issue in conformity with any unappealed initial decision that did not result in a final decision and order under § 209.327(f). There is no intent, however, to preclude a presiding officer from using similar reasoning or analysis in similar disqualification actions.

18. Section 209.327 contains the procedures a party must follow to file an appeal of the presiding officer's initial decision with the FRA Administrator. For purposes of this rule, an appeal connotes a brief on appeal, not merely a notice of appeal. Any party may file an appeal with the Administrator within 35 days of issuance of the initial decision. Upon motion for good cause shown, an extension of the filing period may be granted by the Administrator.

The appeal must set forth objections to the initial decision, discuss applicable laws or regulations, and if he or she relies on evidence in the record, it should be clearly identified. An opposing party may file a reply brief within 25 days of service of the appeal. If the reply depends on evidence contained in the record, it should also be clearly identified. For example, if the appeal or reply relies on oral testimony taken at the hearing, the appellant or appellee should include the pertinent page numbers from the hearing transcript.

There is no right to oral argument on appeal. Oral argument will be permitted only if the Administrator finds that it is necessary to develop the issues on appeal. If an oral argument is allowed, the Administrator shall fashion and issue an appropriate order setting forth the time, place, scope, and other procedures that will be followed.

Section 209.327 also prescribes the Administrator's authority on appeal. On appeal, the Administrator possesses all the powers that the presiding officer had in making the initial decision. He or she may affirm, reverse, alter, or modify the initial decision. Further, the Administrator may remand the case to the presiding official to take further testimony or evidence or make further findings and conclusions.

Initial decisions that have been appealed to the Administrator and result in a decision and order of the Administrator constitute final agency orders and are subject to judicial review in an appropriate United States District Court under 28 U.S.C. 1331 and 5 U.S.C. 701–706.

19. Section 209.329, paragraph (a), establishes the rebuttable presumption, as discussed above, that proof of an individual's willful violation of any of the requirements of 49 CFR parts 213 through 236, excluding parts 225, 228, and 233, establishes that individual's unfitness.

Paragraph (b) sets forth an illustrative list of factors to be used by the Chief Counsel, the presiding officer, and the Administrator in determining an individual's fitness for performing safety-sensitive functions and, if the individual is found to be unfit, in fashioning an appropriate disqualification order. Not all of the factors listed may be relevant in every case. For example, in determining whether the respondent who violated a regulation is unfit to perform safety-sensitive functions, the following factors usually would be relevant: Factor one (nature, seriousness, and frequency of the violation), factor two (adverse impact or potential adverse impact of the violation on the health and safety of persons and safety of property), factor six (whether the respondent was on notice of any safety regulations that were violated or whether he or she had been previously warned about the conduct in question), and factor seven (the respondent's past record of committing violations of safety regulations, including previous FRA warnings issued, disqualifications imposed, civil penalties assessed, railroad disciplinary actions, and criminal convictions therefor). Those same factors would be relevant to fashioning an appropriate disqualification order, but they may not be the only factors relevant. For example, the consistency of the penalty with disqualification orders issued against other individuals for the same or similar violations (factor five) and the civil penalty scheduled for violation of the regulation in question (factor eight) would also be relevant in imposing an appropriate disqualification order. In some cases some of the factors would not be relevant to any issue in the proceeding. If the violation in issue involved an operating practice, for example, railroad and industry maintenance standards (factors three and four) would not be relevant to either a fitness determination or a disqualification order.

Given the sheer newness of this remedy, the seriousness of a disqualification action against an individual, and the myriad considerations that should be taken into account in determining an individual's fitness and developing an appropriate disqualification order, FRA is not at this time proposing a general schedule of offenses and penalties for disqualification proceedings. There may be aggravating factors involved in an individual's violation of a safety requirement that warrant the imposition of a lengthy or permanent disqualification. For example, an engineer who is drinking an alcoholic beverage while operating a locomotive in violation of 49 CFR 219.101(a) is clearly unfit and could be barred from employment as an engineer or in any other position involving the performance of safety-sensitive functions for a lengthy period of time. On the other hand, there may be mitigating factors involved in an individual's violation of a safety requirement that warrant the imposition of a lesser disqualification period. For example, a railroad inspector who negligently fails to conduct, a required track inspection in violation of 49 CFR 213.33 may be disqualified for a relatively brief period if the violation was the inspector's first offense, and undiscovered defects in the track were relatively minor and posed little potential adverse impact on the safety of persons.

20. Section 209.331, paragraph (a), imposes a requirement on an individual who is subject to a disqualification order to disclose the existence of the order and to provide a copy of it to his or her current employer or a prospective employer. Any individual who violates this requirement may be subject to another disqualification proceeding in which FRA will seek to bar permanently the individual from performing safety-sensitive functions and, if the violation is willful, the individual may be assessed a civil penalty of between $1,000 and $5,000 per Violation. See § 209.335(a).

Paragraphs (a) and (b) impose disclosure requirements on railroads in an effort to prevent employees and agents from working in safety-sensitive positions for railroads other than the employee's present employer. For example, if a person is serving under a 120 day disqualification order, that person will be prohibited from working in the rail industry in any of the safety-sensitive functions identified in § 209.303. If the individual applies for a position involving the performance of safety-sensitive functions with any

railroad, the railroad that is considering hiring him or her must inquire of the person's former employer as to whether he or she is presently subject to a disqualification order. Upon receipt of such an inquiry, the person's former employer must inform the inquiring railroad of the terms and conditions of any effective disqualification order. Failure of any railroad or other employer in the rail industry to meet the requirements of this section shall subject them, under § 209.335(b), to a civil penalty of between $5,000 and $10,000 per violation.

21. Section 209.333 prohibits an individual who is subject to a disqualification order from working for a railroad in violation of the terms and conditions of the order. In addition, railroads must not allow such individuals to work in any manner inconsistent with the order. For example, a person who is subject to a disqualification order suspending the person for 120 days and requiring the completion of a specified training program may not be employed by a railroad in a position involving the performance of safety-sensitive functions until the expiration of 120 days and completion of the program. Violations of these provisions will subject the offending individuals and railroads to the sanctions set forth in § 209.335.

Regulatory Impact

E.O. 12291 and DOT Regulatory Policies and Procedures

This rule has been evaluated in accordance with existing policies and procedures, and is considered to be non-major under Executive Order 12291 but significant under DOT policies and procedures (44 FR 11034, February 26, 1979). The rule would not have any direct or indirect economic impact because it does not impose any additional regulatory burden on either railroads or individuals. Therefore, no further analysis of economic impact is required. The potential cost to an individual for participating in a disqualification proceeding and the imposition of a disqualification may and, hopefully, will serve as a deterrent to individuals who might contemplate violating safety regulations. These disqualifications, therefore, may result in the avoidance of substantial costs associated with railroad accidents caused, directly or indirectly, by violations of safety regulations.

Regulatory Flexibility Act

FRA certifies that this rule will not have a significant economic impact on a substantial number of small entities. There are no direct or indirect economic impacts for small units of government, businesses, or other organizations. State rail agencies remain free to participate in the administration of FRA's rules but are not required to do so.

Paperwork Reduction Act

The rule contains information collection requirements in § 209.331. FRA is submitting these information collection requirements to the Office of Management and Budget for approval under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). The public reporting burden for the collection of information under § 209.331 is estimated to average 30 minutes 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 Gloria D. Swanson, Office of Safety, RRS–21, Federal Railroad Administration, 400 Seventh St., SW., Washington, DC 20590; and to Ed Clark, Regulatory Policy Branch (OMB No. 2130–New), Office of Management and Budget, New Executive Office Bldg., 726 Jackson Place, NW., Washington, DC 20503. Copies of any such comments should also be submitted to the docket of this rulemaking at the address provided above.

Environmental Impact

FRA has evaluated these regulations in accordance with its procedures for ensuring full consideration of the potential environmental impacts of FRA actions, as required by the National Environmental Policy Act and related directives. This notice meets the criteria that establish this as a non-major action for environmental purposes.

Federalism Implications

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

List of Subjects in 49 CFR Part 209

Railroad safety, Railroad safety enforcement procedures.

The Final Rule

In consideration of the foregoing, part 209, title 49, Code of Federal Regulations is amended as follows:

PART 209—[AMENDED]

1. The authority citation for part 209 continues to read as follows:

Authority: 45 U.S.C. 6, 10 and 13, as amended; 45 U.S.C. 34, as amended; 45 U.S.C. 43, as amended; 45 U.S.C. 64a, as amended; 45 U.S.C. 431, 437, 438, and 439, as amended; 49 U.S.C. 103(c); 49 App. U.S.C. 26(h), as amended; 49 App. U.S.C. 1655(e), as amended; Pub. L. 100–342; and 49 CFR 1.49(c), (d), (f), (g), and (m).

Subparts B and C also issued under 49 App. U.S.C. 1802, 1804, 1808, 1809, and 1810; and 49 CFR 1.49(s).

2. The table of contents is amended to add new entries as follows:

Subpart A—General

* * * * *

Sec.

209.6 Requests for admission

* * * * *

209.8 Depositions in formal proceedings

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209.17 Motions

* * * * *

Subpart D—Disqualification Procedures

209.301 Purpose and scope
209.303 Coverage
209.305 Notice of proposed disqualification
209.307 Reply
209.309 Informal Response
209.311 Request for hearing
209.313 Discovery
209.315 Subpoenas
209.317 Official record
209.319 Prehearing conference
209.321 Hearing
209.323 Initial decision
209.325 Finality of decision
209.327 Appeal
209.329 Assessment considerations
209.331 Enforcement of disqualification order
209.333 Prohibitions
209.335 Penalties

3. Section 209.1 is amended by revising paragraph (b) to read as follows:

§ 209.1 Purpose.

* * * * *

(b) Exercise of the authority vested in the Secretary by the Federal Railroad Safety Act of 1970, 45 U.S.C. 421, 431–441, as amended by the Rail Safety Improvement Act of 1988, Pub. L. 100–342 (June 22, 1988) (49 CFR 1.49(m)); and

* * * * *

4. Section 209.3 is amended by revising paragraph (e) and adding new paragraphs (f) through (i) to read as follows:

§ 209.3 Definitions.

* * * * *

(e) "Respondent" means a person upon whom the FRA has served a notice of probable violation, notice of investigation, or notice of proposed disqualification.

(f) "Motion" means a request to a presiding officer to take a particular action.

(g) "Presiding Officer" means any person authorized to preside over any hearing or to make a decision on the record, including an administrative law judge.

(h) "Day" means calendar day.

(i) "Pleading" means any written submission setting forth claims, allegations, arguments, or evidence.

5. Section 209.5 is amended by adding new paragraphs (d) and (e) to read as follows:

§ 209.5 Service.

* * * * *

(d) Service of requests for admission and motions may be made by first-class mail, postage prepaid.

(e) Each pleading must be accompanied by a certificate of service specifying how and when service was made.

6. Section 209.6 is added to read as follows:

§ 209.6 Requests for admission.

(a) A party to any proceeding under subpart B, C, or D of this part may serve upon any other party written requests for the admission of the genuineness of any relevant documents identified within the request, the truth of any relevant matters of fact, and the application of law to the facts as set forth in the request.

(b) Each matter of which an admission is requested shall be deemed to be admitted unless, within 30 days after receipt of the request, the party to whom the request is directed serves upon the party requesting the admission a written answer under oath or objection addressed to the matter, signed by the party.

(c) The sworn answer shall specifically admit or deny the matter or set forth in detail the reasons why the answering party cannot truthfully admit or deny the matter. If an objection is made, the reasons therefor shall be stated.

(d) Any matter admitted under this section is conclusively established unless the presiding official permits withdrawal or amendment of the admission for good cause shown.

(e) Upon motion, the presiding officer may order any party to respond to a request for admission.

7. Section 209.7 is amended by revising paragraphs (a) and (b) to read as follows:

§ 209.7 Subpoena; witness fees.

(a) The Chief Counsel may issue a subpoena on his or her own initiative in any matter related to enforcement of the railroad safety laws. However, where a proceeding under subpart B, C, or D of this part has been initiated, only the presiding officer may issue subpoenas, and only upon the written request of any party to the proceeding who makes an adequate showing that the information sought will materially advance the proceeding.

(b) A subpoena may require attendance of a witness at a deposition or hearing or the production of documentary or other tangible evidence in the possession or control of the person served, or both.

* * * * *

8. Section 209.8 is added to read as follows:

§ 209.8 Depositions in formal proceedings.

(a) Any party to a proceeding under subpart B, C, or D of this part may take the testimony of any person, including a party, by deposition upon oral examination on order of the presiding officer following the granting of a motion under paragraph (b) of this section. Depositions may be taken before any disinterested person who is authorized by law to administer oaths. The attendance of witnesses may be compelled by subpoena as provided in § 209.7 and, for proceedings under subpart D of this part, § 209.315.

(b) Any party desiring to take the deposition of a witness shall file and serve a written motion setting forth the name of the witness; the date, time, and place of the deposition; the subject matter of the witness' expected testimony; whether any party objects to the taking of the deposition; and the reasons for taking such deposition. Such motion shall be granted only upon a showing of good cause. Good cause exists to take a person's deposition when the information sought is relevant to the subject matter involved in the proceeding and:

(1) The information is not obtainable from some other source that is more convenient, less burdensome, and less expensive; or

(2) The request is not unreasonably cumulative, unduly burdensome, or unduly expensive, taking into account the needs of the case, limitations on the parties' resources, and the importance of the issues in the case.

(c) Such notice as the presiding officer shall order will be given for the taking of a deposition, but this shall not be less than 10 days' written notice unless the parties agree to a shorter period.

(d) Each witness testifying upon deposition shall be sworn and the adverse party shall have the right to cross-examine. The questions propounded and the answers thereto, together with all objections made, shall be reduced to writing, subscribed by the witness, and certified by the reporter.

(e) Depositions taken under this section may be used for discovery, to contradict or impeach the testimony of the deponent as a witness, or as evidence in the proceeding as permitted by paragraph (f) of this section and in accordance with the limitations of Fed. R. Civ. Pro. 32 as though it were applicable to these proceedings.

(f) Subject to such objections to the questions and answers as were noted at the time of taking the deposition and as would be valid were the witness personally present and testifying, such deposition may be offered in evidence by any party to the proceeding.

9. Section 209.9 is revised to read as follows:

§ 209.9 Filing.

All materials filed with FRA or any FRA officer in connection with a proceeding under subpart B, C, or D of this part shall be submitted in duplicate to the Assistant Chief Counsel for Safety, (RCC–30), Office of Chief Counsel, Federal Railroad Administration, 400 Seventh Street, SW., Washington, DC 20590, except that documents produced in accordance with a subpoena shall be presented at the place and time specified by the subpoena.

10. Section 209.13 is revised to read as follows:

§ 209.13 Consolidation.

At the time a matter is set for hearing under subpart B, C, or D of this part, the Chief Counsel may consolidate the matter with any similar matter(s) pending against the same respondent or with any related matter(s) pending against other respondent(s) under the same subpart. However, on certification by the presiding officer that a consolidated proceeding is unmanageable or otherwise undesirable, the Chief Counsel will rescind or modify the consolidation.

11. Section 209.15 is revised to read as follows:

§ 209.15 Rules of evidence.

The Federal Rules of Evidence for United States Courts and Magistrates shall be employed as general guidelines for proceedings under subparts B, C, and D of this part. However, all relevant and material evidence shall be received into the record.

12. Section 209.17 is added to read as follows:

§ 209.17 Motions.

Motions shall be in writing, filed with the presiding officer, and copies served upon the parties in accordance with § 209.5, except that oral motions may be made during the course of any hearing or appearance before the presiding officer. Each motion shall state the particular order, ruling, or action desired and the grounds therefor. Unless otherwise specified by the presiding officer, any objection to a written motion must be filed within 10 days after receipt of the motion.

13. Subpart D, consisting of §§ 209.301 to 209.335, is added to read as follows:

Subpart D—Disqualification Procedures

§ 209.301 Purpose and scope.

(a) This subpart prescribes the rules of practice for administrative proceedings relating to the determination of an individual's fitness for performing safety-sensitive functions under § 209(f) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 438(f)).

(b) The purpose of this subpart is to prevent accidents and casualties in railroad operations that result from the presence in the work force of railroad employees, including managers and supervisors, and agents of railroads who have demonstrated their unfitness to perform the safety-sensitive functions described in § 209.303 by violating any rule, regulation, order or standard prescribed by FRA. Employees and agents who evidence such unfitness may be disqualified, under specified terms and conditions, temporarily or permanently, from performing such safety-sensitive functions.

(c) This subpart does not preempt a railroad from initiating disciplinary proceedings and imposing disciplinary sanctions against its employees, including managers and supervisors, under its collective bargaining agreements or in the normal and customary manner. Disqualification determinations made under this subpart shall have no effect on prior or subsequent disciplinary actions taken against such employees by railroads.

§ 209.303 Coverage.

This subpart applies to the following individuals:

(a) Railroad employees who are assigned to perform service subject to the Hours of Service Act (45 U.S.C. 61–64b) during a duty tour, whether or not the person has performed or is currently performing such service, and any person who performs such service.

(b) Railroad employees or agents who:

(1) Inspect, install, repair, or maintain track and roadbed;

(2) Inspect, repair or maintain, locomotives, passenger cars, and freight cars;

(3) Conduct training and testing of employees when the training or testing is required by the FRA's safety regulations; or

(c) Railroad managers, supervisors, or agents when they:

(1) Perform the safety-sensitive functions listed in paragraphs (a) and (b) of this section;

(2) Supervise and otherwise direct the performance of the safety-sensitive functions listed in paragraphs (a) and (b) of this section; or

(3) Are in a position to direct the commission of violations of any of the requirements of parts 213 through 236 of this title.

§ 209.305 Notice of proposed disqualification.

(a) FRA, through the Chief Counsel, begins a disqualification proceeding by serving a notice of proposed disqualification on the respondent charging him or her with having violated one or more rules, regulations, orders, or standards promulgated by FRA, which render the respondent unfit to perform safety-sensitive functions described in § 209.303.

(b) The notice of proposed disqualification issued under this section shall contain:

(1) A statement of the rule(s), regulation(s), order(s), or standard(s) that the respondent is alleged to have violated;

(2) A statement of the factual allegations that form the basis of the initial determination that the respondent is not fit to perform safety-sensitive functions;

(3) A statement of the effective date, duration, and other conditions, if any, of the disqualification order;

(4) A statement of the respondent's right to answer the charges in writing and furnish affidavits and any other documentary evidence in support of the answer;

(5) A statement of the respondent's right to make an informal response to the Chief Counsel;

(6) A statement of the respondent's right to request a hearing and the procedures for requesting a hearing;

(7) A statement of the respondent's right to counsel or other designated representative; and

(8) Notice of the consequences of the respondent's failure to take any of the actions described in § 209.307(a).

(c) The Chief Counsel shall enclose with the notice of proposed disqualification a copy of the material that is relied on in support of the charges. Nothing in this section precludes the Chief Counsel from presenting at a subsequent hearing under § 209.321 any evidence of the charges set forth in the notice that the Chief Counsel acquires after service thereof on the respondent. The Chief Counsel, however, shall serve a copy of any such evidence on the respondent at or before the prehearing conference required under § 209.319. Failure to furnish such evidence to respondent at or before the prehearing conference bars its introduction at the hearing.

(d) The Chief Counsel shall provide a copy of the notice of proposed disqualification to the railroad that employs the respondent.

§ 209.307 Reply.

(a) Within 30 days after receipt of the notice of proposed disqualification issued under § 209.305, the respondent shall reply in writing to the charges. The respondent may furnish affidavits and any other documentary evidence in support of the reply. Further, the respondent may elect to—

(1) Stipulate to the charges and consent to the imposition of the disqualification order under the conditions set forth in the notice;

(2) Make an informal response as provided in § 209.309; or

(3) Request a hearing as provided in § 209.311.

(b) The Chief Counsel may extend the reply period for good cause shown, provided the request for extension is served before the expiration of the period provided in paragraph (a) of this section.

(c) Failure of the respondent to reply to the notice of proposed disqualification within the period provided in paragraph (a) of this section or an extension thereto provided under paragraph (b) of this section constitutes a waiver of the respondent's right to appear and contest the charges or the proposed disqualification. Respondent's failure to reply authorizes the Chief Counsel, without further notice to the respondent, to find the respondent unfit for the performance of the safety-

sensitive functions described in § 209.303 and to order the respondent disqualified from performing them for the period and under the other conditions described in the notice of proposed disqualification. The Chief Counsel shall serve respondent with the disqualification order and provide a copy of the order to the railroad by which the respondent is employed.

§ 209.309 Informal Response.

(a) If the respondent elects to make an informal response to a notice of proposed disqualification, he or she shall submit to the Chief Counsel such written explanations, information, or other materials as respondent may desire in answer to the charges or in mitigation of the proposed disqualification.

(b) The respondent may include in an informal written response a request for a conference. Upon receipt of such a request, the Chief Counsel shall arrange for a conference at a time and place designated by the Chief Counsel.

(c) Written explanations, information, or materials submitted by the respondent and relevant information presented during any conference held under this section shall be considered by the Chief Counsel in reviewing the notice of proposed disqualification, including the question of the respondent's fitness and the conditions of any disqualification that may be imposed.

(d) After consideration of an informal response, including any relevant information presented at a conference, the Chief Counsel shall take one of the following actions:

(1) Dismiss all the charges and terminate the notice of proposed disqualification;

(2) Dismiss some of the charges and mitigate the proposed disqualification;

(3) Mitigate the proposed disqualification; or

(4) Sustain the charges and proposed disqualification.

(e) Should the Chief Counsel sustain, in whole or in part, the charges and proposed disqualification and reach settlement with the respondent, the Chief Counsel shall issue an appropriate disqualification order reflecting the settlement and shall provide a copy of that order to the railroad by which the respondent is employed. The duration of the disqualification period may be less than, but shall be no greater than, the period set forth in the notice. Any settlement reached shall be evidenced by a written agreement, which shall include declarations from the respondent stipulating to the charges contained in the disqualification order, consenting to the imposition of the disqualification under the conditions set forth in the disqualification order, and waiving his or her right to a hearing.

(f) If settlement of the charges against the respondent is not achieved, the Chief Counsel shall terminate settlement discussions no later than 30 days from service of the informal response upon the Chief Counsel by serving respondent written notice of termination of settlement negotiations.

(g) By electing to make an informal response to a notice of proposed disqualification, the respondent does not waive the right to a hearing. However, the respondent must submit the hearing request required by § 209.311(a) within 10 days after receipt of the notice of termination of settlement negotiations from the Chief Counsel. Failure to submit such a request constitutes a waiver of the respondent's right to appear and contest the charges or the proposed disqualification.

(h) The Chief Counsel may extend the period for requesting a hearing for good cause shown, provided the request for extension is served before the expiration of the period provided in paragraph (g) of this section.

§ 209.311 Request for hearing.

(a) If the respondent elects to request a hearing, he or she must submit a written request within the time periods specified in § 209.307(a) or § 209.309(g) to the Chief Counsel referring to the case number that appears on the notice of proposed disqualification. The request must contain the following:

(1) The name, address, and telephone number of the respondent and of the respondent's designated representative, if any;

(2) A specific response admitting, denying, or explaining each allegation of the notice of disqualification order.

(3) A description of the claims and defenses to be raised by the respondent at the hearing; and

(4) The signature of the respondent or the representative, if any.

(b) Upon receipt of a request for a hearing complying with the requirements of paragraph (a) of this section, the Chief Counsel shall arrange for the appointment of a presiding officer and transmit the disqualification file to the presiding officer, who shall schedule the hearing for the earliest practicable date within the time period set by § 209.321(a) of this subpart.

(c) Upon assignment of a presiding officer, further matters in the proceeding generally are conducted by and through the presiding officer, except that the Chief Counsel and respondent may settle or voluntarily dismiss the case without order of the presiding officer. The Chief Counsel shall promptly notify the presiding officer of any settlement or dismissal of the case.

§ 209.313 Discovery.

(a) Disqualification proceedings shall be conducted as expeditiously as possible with due regard to the rights of the parties. Discovery is designed to enable a party to obtain relevant information needed for preparation of the party's case. These regulations are intended to provide a simple, timely, and relatively economical system for discovery. They shall be interpreted and applied so as to avoid delay and facilitate adjudication of the case.

(b) Discovery may be obtained by requests for admission under § 209.6, requests for production of documentary or other tangible evidence under § 209.7, and depositions under § 209.8.

(c) A party may initiate the methods of discovery permitted under paragraph (b) of this section at any time after respondent requests a hearing under § 209.311.

(d) Discovery shall be completed within 90 days after receipt of respondent's request for a hearing under § 209.311. Upon motion for good cause shown, the presiding officer may extend this time period for an additional 30 days. The presiding officer may grant an additional 30 day extension only when the party requesting the extension shows by clear and convincing evidence that the party was unable to complete discovery within the prescribed time period through no fault or lack of due diligence of such party, and that denial of the request would result in irreparable prejudice.

(e) If a party fails to comply with a discovery order or an order to compel, the presiding officer may:

(1) Strike any appropriate part of the pleadings or other submissions of the party failing to comply with such order;

(2) Prohibit the party failing to comply with such order from introducing evidence relating to the information sought;

(3) Draw an inference in favor of the requesting party with regard to the information sought; and

(4) Permit the requesting party to introduce secondary evidence concerning the information sought.

§ 209.315 Subpoenas.

Once a notice of proposed disqualification has been issued in a particular matter, only the presiding officer may issue, deny, quash, or modify subpoenas under this subpart in accordance with § 209.7.

§ 209.317 Official record.

The notice of proposed disqualification, respondent's reply, exhibits, and verbatim record of testimony, if a hearing is held, and all pleadings, stipulations, and admissions filed and rulings and orders entered in the course of the proceeding shall constitute the exclusive and official record.

§ 209.319 Prehearing conference.

(a) The parties shall confer with the presiding officer, either in person or by telephone, for a conference at least 10 days before the hearing to consider:

(1) Formulation and simplification of the issues;

(2) Stipulations, admissions of fact, and admissions of the contents and authenticity of documents;

(3) Advance rulings from the presiding officer on the admissibility of evidence;

(4) Identification of witnesses, including the scope of their testimony, and of hearing exhibits;

(5) Possibility of settlement; and

(6) Such other matters as the presiding officer deems necessary to expedite the disposition of the proceeding.

(b) The record shall show the matters disposed of by order and by agreement in such a prehearing conference. The subsequent course of the hearing shall be controlled by such action.

(c) The prehearing conference shall be held within 150 days after receipt of respondent's request for a hearing under § 209.311.

§ 209.321 Hearing.

(a) When a hearing is requested and scheduled under § 209.311, a presiding officer designated by the Chief Administrative Law Judge of the Department convenes and presides over the hearing. The hearing shall begin within 180 days from receipt of respondent's hearing request. Notice of the time and place of the hearing shall be given to the parties at least 20 days before the hearing. Testimony by witnesses shall be given under oath and the hearing shall be recorded verbatim. The hearing shall be open to the public, unless the presiding official determines that it would be in the best interests of the respondent, a witness, or other affected persons, to close all or any part of it. If the presiding official makes such a determination, an appropriate order, which sets forth the reasons therefor, shall be entered.

(b) The presiding officer may:

(1) Administer oaths and affirmations;

(2) Issue subpoenas as provided by § 209.7;

(3) Adopt procedures for the submission of evidence in written form;

(4) Take or cause depositions to be taken as provided in § 209.8;

(5) Rule on offers of proof and receive relevant evidence;

(6) Examine witnesses at the hearing;

(7) Convene, recess, reconvene, adjourn, and otherwise regulate the course of the hearing;

(8) Hold conferences for settlement, simplification of the issues, or any other proper purpose; and

(9) Take any other action authorized by or consistent with the provisions of this subpart and permitted by law that may expedite the hearing or aid in the disposition of an issue raised therein.

(c) FRA has the burden of proof, by a preponderance of the evidence, as to the facts alleged in the notice of proposed disqualification, the reasonableness of the conditions of the qualification proposed, and, except as provided in § 209.329(a), the respondent's lack of fitness to perform safety-sensitive functions. The Chief Counsel may offer relevant evidence, including testimony, in support of the allegations contained in the notice of proposed disqualification and conduct such cross-examination as may be required for a full disclosure of the material facts.

(d) The respondent may appear and be heard on respondent's own behalf or through respondent's designated representative. The respondent may offer relevant evidence, including testimony, in defense of the allegations or in mitigation of the proposed disqualification and conduct such cross-examination as may be required for a full disclosure of the material facts. Respondent has the burden of proof, by a preponderance of the evidence, as to any affirmative defense, including that respondent's actions were in obedience to the direct order of a railroad supervisor or higher level official.

(e) The record shall be closed at the conclusion of the hearing, unless the parties request the opportunity to submit proposed findings and conclusions. When the presiding officer allows the parties to submit proposed findings and conclusions, documents previously identified for introduction into evidence, briefs, or other posthearing submissions the record shall be left open for such time as the presiding officer grants for that purpose.

§ 209.323 Initial decision.

(a) The presiding officer shall prepare an initial decision after the closing of the record. The initial decision may dismiss the notice of proposed disqualification, in whole or in part, sustain the charges and proposed disqualification, or sustain the charges and mitigate the proposed disqualification.

(b) If the presiding officer sustains the charges and the proposed disqualification, dismisses some of the charges, or mitigates the proposed disqualification, the presiding officer shall issue and serve an appropriate order disqualifying respondent from engaging in the safety-sensitive functions described in § 209.303. If the presiding officer dismisses all of the charges set forth in notice of proposed disqualification, a dismissal order shall be issued and served.

(c) Each initial decision shall contain:

(1) Findings of fact and conclusions of law, as well as the reasons or bases therefor, upon all the material issues of fact and law presented on the record;

(2) An order, as described in paragraph (b) of this section;

(3) The dates any disqualification is to begin and end and other conditions, if any, that the respondent must satisfy before the disqualification order is discharged; and

(4) The date upon which the decision will become final, as prescribed in § 209.325.

(5) Notice of the parties' appeal rights, as prescribed in § 209.327.

(d) The decision shall be served upon the FRA Chief Counsel and the respondent. The Chief Counsel shall provide a copy of the disqualification order to the railroad by which the respondent is employed.

§ 209.325 Finality of decision.

(a) The initial decision of the presiding officer shall become final 35 days after issuance. Such decisions are not precedent.

(b) Exception. The initial decision shall not become final if, within 35 days after issuance of the decision, any party files an appeal under § 209.327. The timely filing of such an appeal shall stay the order in the initial decision.

§ 209.327 Appeal.

(a) Any party aggrieved by an initial decision issued under § 209.323 may file an appeal. The appeal must be filed within 35 days of issuance of the initial decision with the Federal Railroad Administrator, 400 Seventh Street, SW., Washington, DC 20590. A copy of the appeal shall be served on each party. The appeal shall set forth objections to the initial decision, supported by reference to applicable laws and regulations, and with specific reference to the record. If the Administrator has played any role in investigating, prosecuting, or deciding to prosecute the particular case, the Administrator shall

recuse him or herself and delegate his or her authority under this section to a person not so involved.

(b) A party may file a reply to an appeal within 25 days of service of the appeal. If the party relies on evidence contained in the record for the reply, the party shall specifically refer to the pertinent evidence in the record.

(c) The Administrator may extend the period for filing an appeal or a response for good cause shown, provided the written request for extension is served before the expiration of the applicable period provided in paragraph (c) or (d) of this section.

(d) The Administrator has sole discretion to permit oral argument on the appeal. On the Administrator's own initiative or upon written motion by any party, the Administrator may determine that oral argument will contribute substantially to the development of the issues on appeal and may grant the parties an opportunity for oral argument.

(e) The Administrator may affirm, reverse, alter, or modify the decision of the presiding officer, or may remand the case for further proceedings before the presiding officer. The Administrator shall inform the parties and the presiding officer of his or her decision.

(f) The decision of the Administrator is final, constitutes final agency action, and is not subject to further administrative review.

§ 209.329 Assessment considerations.

(a) Proof of a respondent's willful violation of one of the requirements of parts 213 through 236 (excluding parts 225, 228, and 233) of this title establishes a rebuttable presumption that the respondent is unfit to perform the safety-sensitive functions described in § 209.303. Where such presumption arises, the respondent has the burden of establishing that, taking account of the factors in paragraph (b) of this section, he or she is fit to perform the foregoing safety-sensitive functions for the period and under the other conditions, if any, proposed in the notice of proposed disqualification.

(b) In determining respondent's lack of fitness to perform safety-sensitive functions and the duration and other conditions, if any, of appropriate disqualification orders under §§ 209.309, 209.323, and 209.327, the factors to be considered, to the extent each is pertinent to the respondent's case, include but are not limited to the following:

(1) The nature and circumstances of the violation, including whether the violation was intentional, technical, or inadvertent, was committed willfully, or was frequently repeated;

(2) The adverse impact or the potentially adverse impact of the violation on the health and safety of persons and the safety of property;

(3) The railroad's operating rules, safety rules, and repair and maintenance standards;

(4) Repair and maintenance standards adopted by the industry;

(5) The consistency of the conditions of the proposed disqualification with disqualification orders issued against other employees for the same or similar violations;

(6) Whether the respondent was on notice of any safety regulations that were violated or whether the respondent had been warned about the conduct in question;

(7) The respondent's past record of committing violations of safety regulations, including previous FRA warnings issued, disqualifications imposed, civil penalties assessed, railroad disciplinary actions, and criminal convictions therefor;

(8) The civil penalty scheduled for the violation of the safety regulation in question;

(9) Mitigating circumstances surrounding the violation, such as the existence of an emergency situation endangering persons or property and the need for the respondent to take immediate action; and

(10) Such other factors as may be warranted in the public interest.

§ 209.331 Enforcement of disqualification order.

(a) A railroad that employs or formerly employed an individual serving under a disqualification order shall inform prospective or actual employers of the terms and conditions of the order upon receiving notice that the disqualified employee is being considered for employment with or is employed by another railroad to perform any of the safety-sensitive functions described in § 209.303.

(b) A railroad that is considering hiring an individual to perform the safety-sensitive functions described in § 209.303 shall ascertain from the individual's previous employer, if such employer was a railroad, whether the individual is subject to a disqualification order.

(c) An individual subject to a disqualification order shall inform his or her employer of the order and provide a copy thereof within 5 days after receipt of the order. Such an individual shall likewise inform any prospective employer who is considering hiring the individual to perform any of the safety-sensitive functions described in § 209.303 of the order and provide a copy thereof within 5 days after receipt of the order or upon application for the position, whichever first occurs.

§ 209.333 Prohibitions.

(a) An individual subject to a disqualification order shall not work for any railroad in any manner inconsistent with the order.

(b) A railroad shall not employ any individual subject to a disqualification order in any manner inconsistent with the order.

§ 209.335 Penalties.

(a) Any individual who violates § 209.331(c) or § 209.333(a) may be permanently disqualified from performing the safety-sensitive functions described in § 209.303. Any individual who willfully violates § 209.331(c) or § 209.333(a) may also be assessed a civil penalty of at least $1,000 and not more than $5,000 per violation.

(b) Any railroad that violates § 209.331 (a) or (b) or § 209.333(b) may be assessed a civil penalty of at least $5,000 and not more than $10,000 per violation.

(c) Each day a violation continues shall constitute a separate offense.

Issued in Washington, DC, on October 11, 1989.

Gilbert E. Carmichael,

Federal Railroad Administrator.

[FR Doc. 89-24523 Filed 10-17-89; 8:45 am]

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Federal Register

Wednesday
October 18, 1989

Part IV

Department of Transportation

Federal Aviation Administration

14 CFR Part 139

Airport Certification and Operations; Clarification of Various Provisions; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 139

[Docket No. 25698; Notice No. 89-30]

RIN 2120-AD10

Airport Certification and Operations; Clarification of Various Provisions

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes changes to the certification and operation regulations of land airports serving air carriers. These actions regarding certification requirements and the control of ground vehicles on an airport are necessary for consistency with existing operating regulations and to address concerns that the current language appears to place undue responsibility and liability on certificate holders. The proposed changes are intended to permit use of uncertificated airports, by air carriers in unscheduled service, in certain situations and clarify responsibility for compliance with airport rules for the operation of ground vehicles by individual tenants, contractors, and employees.

DATE: Comments must be submitted on or before December 18, 1989.

ADDRESS: Comments on this notice should be mailed in triplicate to: Federal Aviation Administration, Office of the Chief Council, Attention: Rules Docket (AGC-10), Docket No. 25698, 800 Independence Avenue, SW., Washington, DC 20591. Comments delivered must be marked Docket No. 25698. Comments may be examined in Room 915G weekdays between 8:30 a.m. and 5 p.m. except on Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Edward Rancourt, Airport Safety and Operations Division (AAS-300), Office of Airport Safety and Standards, 800 Independence Avenue, SW., Washington, DC 20591, Telephone (202) 267-8723.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rules by submitting such written data, views, or arguments as they may desire. Comments relating to the environmental, energy, federalism, or economic impact that might result from adopting the proposals in this notice are also invited. Substantive comments should be accompanied by cost estimates. Comments should identify the regulatory docket or notice number and should be submitted in triplicate to the Rules Docket address specified above. All comments received on or before the closing date for comments specified will be considered by the Administrator before taking action on this proposed rulemaking. The proposals contained in this notice may be changed in light of comments received. All comments received will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each substantive public contact with Federal Aviation Administration (FAA) personnel concerned with this rulemaking will be filed in the docket. Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must include a preaddressed, stamped postcard on which the following statement is made: "Comments to Docket No. 25698." The postcard will be date stamped and mailed to the commenter.

Availability of NPRM

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center (APA-430), 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267-3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on the mailing list for future NPRM's should request from the above office a copy of Advisory Circular No. 11-2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Discussion of the Proposed Rule

Background

Part 139 of the Federal Aviation Regulations (FAR) prescribes rules governing the certification and operation of land airports serving any passenger operation of an air carrier that is conducted with an aircraft having a seating capacity of more than 30 passengers. In 1987, the FAA issued Amendment No. 139-14 (52 FR 44276, November 18, 1987) which revised and reorganized the part to make it more understandable, defined certain requirements more specifically, and imposed additional safety requirements. Since that time, it has become evident that these proposed changes are necessary for consistency with existing operating regulations and to clarify current requirements.

General Discussion of the Proposals

Section 139.101

Current § 139.101(b) states, in pertinent part, that no person may operate a land airport in the United States serving any unscheduled passenger operation of an air carrier while operating an aircraft having a seating capacity of more than 30 passengers without or in violation of a limited airport operating certificate. Section 121.590 prohibits air carriers and pilots operating under part 121 from operating into a land airport unless it is certificated under part 139; however, it includes a provision for special authorization by the Administrator. The proposal would include the same type of provision in § 139.101. This provision is needed in emergency or sensitive situations such as the use of large air carrier aircraft in evacuations, emergencies, natural disasters, and unusual circumstances such as the operation of aircraft accompanying Air Force One when the President is traveling. The proposed change would make the airport certification requirement in part 139 consistent with the operating requirement in part 121 and would provide the Administrator with the authority to allow air carrier operations into an uncertificated airport in emergency and unusual circumstances. Additional editorial changes are proposed for clarity and consistency.

Section 139.329

Current § 139.329, in pertinent part, requires airport operators to ensure that each employee, tenant, or contractor who operates a ground vehicle on any portion of the airport which has access to the movement area is familiar and complies with the airport's rules and procedures for the operation of ground vehicles. After Amendment No. 139-14 was published, airport operators expressed concern that the section, as amended, appears to make an airport operator absolutely liable in every case of a ground vehicle violation. There was particular concern since the words "and complies" were not included in the NPRM.

The FAA had not intended this change in the language as a substantive change. Since previous § 139.59 required airport operators to have procedures for the control of ground vehicles, the FAA viewed this revision as making explicit the requirements that had been implicitly understood in the previous

version of the rule. However, because of the unintended effect of the language and the misinterpretation of intent, the FAA issued a policy statement in an attempt to clarify the intent of the provision.

Petition for Rulemaking

The Airport Operators Council International (AOCI) and the American Association of Airport Executive (AAAE) have jointly petitioned the FAA to clarify the language in the regulation. The petition raises the concern that the language can be interpreted to place liability for any ground vehicle violation on airport operators. A summary of the petition was published in the **Federal Register** on November 14, 1988 (53 FR 45771). In response to this petition, the FAA received approximately 20 comments supporting the request for change. No responses were received opposing the petition.

The FAA agrees with AOCI/AAAE that the language in § 139.329(e) should be changed. It is not intent of the FAA to establish strict liability on the part of the airport operators but to ensure compliance on the part of individual vehicle operators. It is the FAA's intent to require airport operators to have adequate procedures and to require that they implement those procedures. Therefore, the FAA is proposing to amend § 139.329 (b) and (e) to clarify that airport operators must establish and implement a program for the operation of ground vehicles. The program must include a compliance aspect so that individuals, tenants, and other operators of ground vehicles who do not comply with the program are held accountable by the airport operator for their noncompliance.

It is the FAA's view that these proposed changes are not substantive, reflect what had always, been the airport operator's responsibility, and reflect those obligations more clearly in the rule. The program, including the provisions identifying the consequences of noncompliance, may vary with airport size and complexity, the number and type of ground vehicle operations, and similar factors that result in the variations reflected now among airports.

Paperwork Reduction Act

The proposed amendments to §§ 139.101 and 139.329 do not change any recordkeeping or reporting burden associated with those sections. Information collection requirements in part 139 have previously been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511) and have been assigned OMB Control Number 2120–0063.

Regulatory Evaluation

The proposed changes would place no additional requirements or costs upon certificate holders. The FAA has not quantified any specific economic benefits, although there are some perceived benefits, as reflected in the AOCI/AAAE petition. For the reason, it has been determined that the expected economic impact of the proposals are so minimal that a full Regulatory Evaluation is not warranted.

International Trade Impact Analysis

The proposals affect only airports subject to part 139 of the Federal Aviation Regulations. Accordingly, the proposed rules would have no impact on trade opportunities for U.S. firms doing business overseas and foreign firms doing business in the United States.

Federalism Implications

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.

Conclusion

For the reasons discussed in the preamble, the FAA has determined that this document involves proposed regulations which are not major rules under Executive Order 12291 and are not significant under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). Additionally, it is certified that, under the criteria of the Regulatory Flexibility Act, this NPRM will not have a significant economic impact, positive or negative, on a substantial number of small entities.

List of Subjects in 14 CFR Part 139

Air carriers, Aircraft, Airports, Airplanes, Air safety, Aviation safety, Air Transportation, Safety, Transportation.

The Proposed Amendments

In consideration of the foregoing, the Federal Aviation Administration Proposes to amend part 139 of the Federal Aviation Regulations (14 CFR part 139) as follows:

PART 139—CERTIFICATION AND OPERATIONS: LAND AIRPORTS SERVING CERTAIN AIR CARRIERS

1. The authority citation for part 139 continues to read as follows:

Authority: 49 U.S.C. 1354(a) and 1432; 49 U.S.C. section 106(g) (Revised, Pub. L. 97–449, January 12, 1983).

2. By revising § 139.101 to read as follows:

§ 130.101 Certification requirements: General.

(a) No person may operate and land airport in any State of the United States, the District of Columbia, or any territory or possession of the United States, serving any scheduled passenger operation of an air carrier operating an aircraft having a seating capacity of more than 30 passengers without an airport operating certificate, or in violation of that certificate, the applicable provisions of this part, or the approved airport certification manual for that airport.

(b) Unless otherwise authorized by the Administrator, no person may operate a land airport in any State of the United States, the District of Columbia, or any territory or possession of the United States, serving any unscheduled passenger operation of an air carrier operating an aircraft having a seating capacity of more than 30 passengers without a limited airport operating certificate, or in violation of that certificate, the applicable provisions of this part, or the approved airport specifications for that airport.

3. By amending § 139.329 by revising paragraphs (b) and (e) to read as follows:

§ 139.329 Ground Vehicles.

* * * * *

(b) Establish and implement a program for the safe and orderly access to, and operation on, the movement area and safety areas by ground vehicles, including provisions identifying the consequences of noncompliance with the program by an employee, tenant, or contractor;

* * * * *

(e) Ensure that each employee, tenant, or contractor who operates a ground vehicle on any portion of the airport which has access to the movement area is familiar with the airport's rules and procedures for the operation of ground

vehicles and the consequences of noncompliance; and

* * * * *

Raymond T. Uhl,

Acting Director, Office of Airport Safety and Standards, AAS–1.

Issued in Washington, DC on October 10, 1989.

[FR Doc. 89–24541 Filed 10–17–89; 8:45 am]

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Wednesday
October 18, 1989

Part V

Department of Transportation

Federal Aviation Administration

14 CFR Part 1 et. al.
Airspace Reclassification; Proposed Rule

DEPARTMENT OF TRANSPORTATION

14 CFR Parts 1, 11, 65, 71, 75, 91, 93, 101, 103, 105, 121, 127, 137, and 171

[Docket No. 24456, Notice No. 89-28]

RIN 2120-AB95

Airspace Reclassification

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes to adopt certain recommendations of the National Airspace Review (NAR) concerning changes to regulations and procedures dealing with airspace classification. These changes are intended to: (1) Simplify airspace designations; (2) achieve international commonality of airspace designations; (3) increase standardization of equipment requirements for operations in the various classifications of airspace; and (4) associate appropriate pilot certification requirements, visual flight rules (VFR) visibility and distance from clouds rules, and air traffic services offered in each proposed class of airspace. This proposal represents the combination of three separate advance proposals issued in 1985 concerning airspace assignment and related air traffic operating rules. The FAA believes the simplified airspace classification proposed in this action will reduce existing airspace complexity and thereby enhance safety.

DATES: Comments must be received on or before April 18, 1990.

ADDRESSES: Comments may be mailed or delivered in duplicate to: Federal Aviation Administration, Office of Chief Counsel, Attention: Rules Docket (AGC-204), Docket No. 24456, 800 Independence Avenue SW., Washington, DC 20591. Comments may be examined in the Rules Docket weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. A. Wayne Pierce, Air Traffic Rules Branch, ATO-230, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, telephone (202) 267-8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in these proposed rulemaking procedures by submitting such written data, views, or arguments as they may desire. Any materials submitted should identify the regulatory docket or notice number and be submitted in duplicate to the address above. All communications received on or before the closing date for comments will be considered by the Administrator before taking further rulemaking action. Persons wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 24456." The postcard will be date/time stamped and returned to the commenter. The proposals contained in this notice may be changed as a result of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA-200, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267-3484. Requests must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future notices should also request a copy of the Advisory Circular No. 11-2 which describes the application procedure.

Background

On April 22, 1982, the National Airspace Review (NAR) plan was published in the **Federal Register** (47 FR 17448). The plan encompassed a review of airspace use and the procedural aspects of the air traffic control (ATC) system. Organizations participating in the NAR included:

Aircraft Owners and Pilots Association (AOPA)
Air Lines Pilots Association (ALPA)
Air Transport Association (ATA)
Department of Defense (DOD)
Experimental Aircraft Association (EAA)
Federal Aviation Administration (FAA)
Helicopter Association International (HAI)
National Association of State Aviation Officials (NASAO)
National Business Aircraft Association (NBAA)
Regional Airline Association (RAA)

The main objectives of the NAR were:

(1) To develop and incorporate into the ATC system a more efficient relationship between traffic flows, airspace allocation, and system capacity. This will involve the use of improved air traffic flow management to maximize system capacity and improve airspace management.

(2) To review and eliminate, wherever possible, governmental restraints to system efficiency imposed by Federal Aviation Regulations (FAR) and FAA directives thereby reducing complexity and simplifying the ATC system.

(3) To revalidate ATC services within the National Airspace System (NAS) with respect to state-of-the-art and future technological improvements.

In concert with the foregoing objectives, several NAR task groups were organized and assigned to review various issues associated with airspace classifications and ATC procedures, pilot certification requirements, and aircraft equipment and operating requirements in the different categories of airspace. The recommendations identified and discussed below in the paragraph entitled "Discussion of Pertinent NAR Recommendations," were made by these task groups and were the basis of three separate advance notices of proposed rulemaking (ANPRM): Notice No. 85-4, Terminal Airspace Reclassification, Docket No. 24455 (50 FR 5055; 2/5/85); Notice No. 85-5, Airspace Reclassification/Services/Requirements, Docket No. 24456 (50 FR 5046; 2/5/85); and Notice No. 85-15, Controlled Airspace Designations in International Airspace, Docket No. 24732 (50 FR 30798; 7/29/85).

Related Agency Actions

Subsequent to the issuance of these ANPRM's, the FAA has undertaken other regulatory actions which affect the content of the airspace reclassification being proposed. First, on January 29, 1987, the FAA issued Amendment No. 91-198 (52 FR 3380; 2/3/87) which required, effective 12/1/87, all aircraft operating in a Group II terminal control area (TCA) to be equipped with a transponder capable of reporting altitude information.

Second, on October 14, 1988, the FAA published Amendment Nos. 61-80, 71-11, and 91-205 (53 FR 40318). Amendment No. 71-11 established a single-class TCA. Operations within what were previously Group II TCA's will be subject to the more stringent aircraft equipment requirements already existing for Group I TCA's (Amendment No. 91-205).

Pursuant to Amendment Nos. 61-80 and 91-205, operations within a TCA by a student pilot will be limited to those conducted through a TCA, at non-TCA

primary airports, and at selected TCA primary airports. Such student pilot operations will be allowed only after the student has received specific additional training, a determination that the student is competent to operate in a TCA, and a logbook endorsement by an instructor of the student's competency. Also proposed under the same NPRM (Notice No. 87–7) that culminated in Amendment Nos. 61–80, 71–11, and 91–205, each aircraft operating below 12,500 feet mean sea level (MSL) within 30 miles of a TCA primary airport would have been required to have an operating transponder with automatic altitude reporting capability. This last proposal was modified and made a part of Amendment No. 91–203 (52 FR 23356; June 21, 1988). Amendment No. 91–203 requires, in pertinent part, altitude encoding: (1) When operating within 30 miles of a TCA primary airport below 10,000 feet; (2) above an airport radar service area (ARSA) below 10,000 feet; (3) anywhere, at and above 10,000 feet.

Third, the FAA proposed, in response to laws enacted in December 1987, Pub. L. 100–202 and Pub. L. 100–223, to lower the Continental Control Area from 14,500 feet MSL to 1,200 feet above the surface or an altitude yet to be determined. If this proposition, originally publicized in Notice No. 88–2 (53 FR 4306; February 12, 1988), is adopted, there would be no need to continue to designate controlled airspace with the establishment of a Federal Airway. The lowering of Continental Control Area was not included in the final rule, Amendment No. 91–203, and it is not proposed in this notice but may be proposed in a separate, subsequent notice. Notice No. 88–2 also proposed a requirement for aircraft to be equipped with a transponder and altitude reporting equipment for operations within 40 miles of an airport for which a terminal radar facility has been established, and for operations at and above 6,000 feet above the surface or 12,500 feet MSL, whichever is lower. These altitude reporting requirements were modified and made a part of Amendment No. 91–203, as indicated in the preceding paragraph.

The airspace reclassification and requirements proposed earlier in the ANPRM's have been revised in this notice to reflect only those proposals which have not been incorporated into other related rulemaking actions. Those revisions are addressed later in this document in a discussion of the actions proposed.

International Implications

Canada has already implemented a new airspace classification system dividing Canadian airspace into six categories, and has conducted a formal review of that airspace classification system within a framework similarly structured to the U.S. National Airspace Review (NAR). This review is called the Canadian Airspace Review. Currently, Canada's categories of airspace are defined as Classes A, B, C, D, E, and F. Each class of airspace is associated with a set of pilot qualification requirements, pilot operating rules, and specific ATC services.

In addition, the Air Navigation Commission (ANC) of the International Civil Aviation Organization (ICAO) has accepted a recommendation from the Visual Flight Operations Panel (VFOP) of ICAO which proposes: "That ICAO, as soon as practicable, provide states and selected international organizations with information concerning the proposed types of airspace, the types of traffic, and the air traffic services in each." In conjunction with the VFOP recommendation, an airspace classification concept has been developed by the VFOP and accepted by the ANC as a recommendation. The VFOP's recommendations, along with the nearest equivalent U.S. airspace designations, are summarized as follows:

Airspace A (U.S. Positive Control Areas). All operations must be conducted under instrument flight rules (IFR) and are subject to ATC clearances and instructions. ATC service is provided to all aircraft.

Airspace B (U.S. Terminal Control Areas). Operations may be conducted under IFR or visual flight rules (VFR). However, all aircraft are subject to ATC clearances and instructions. ATC service is provided to all aircraft.

Airspace C (U.S. Airport Radar Service Areas). Operations may be conducted under IFR or VFR; however, all aircraft are subject to ATC clearances and instructions. ATC service is provided to all aircraft operating under IFR and, as necessary, to any aircraft operating under VFR when any aircraft operating under IFR is involved. All VFR operations will be provided collision hazard information (traffic advisories) and, upon request, conflict resolution instructions.

Airspace D (U.S. Airport Traffic Areas). Operations may be conducted under IFR or VFR; however, all aircraft are subject to ATC clearances and instructions. ATC separation service is provided to aircraft operating under IFR only. All traffic will receive collision hazard information (traffic advisories) and, upon pilot request, conflict resolution instructions.

Airspace E (U.S. General Controlled Airspace). Operations may be conducted under IFR or VFR. ATC service is provided to aircraft operating under IFR only. As far as practical, ATC may provide collision hazard information (traffic advisories) to aircraft operating under VFR.

Airspace F (U.S. Has No Equivalent). Operations may be conducted under IFR or VFR. ATC services will be provided, so far as practical, to aircraft operating under IFR.

Airspace G (U.S. Uncontrolled Airspace). Operations may be conducted under IFR or VFR when ATC service is not available.

Present U.S. Airspace Classification

Federal Aviation Regulations (FAR) parts 71, 73, and 75 contain the various designations and definitions of controlled airspace and routes. FAR Part 1 contains the definition of an airport traffic area. Uncontrolled airspace is not designated by regulations but may be thought of as that airspace not included within the definition of controlled airspace in Part 1. Other parts of the FAR contain rules under which pilots and operators must operate while in the various airspace segments as well as in uncontrolled airspace. Pilot certificates are not regulated or issued with respect to operations in a specific airspace designation, but may be issued with a limitation on operations to those conducted under VFR. In general, the application and extent of ATC services are not regulated under the FAR. ATC services are provided in accordance with FAA directives. The following U.S. airspace comparison table is not thoroughly descriptive of the operating requirements of each classification, it is meant only to illustrate the similarity of the airspace types developed by the ICAO panel and those being proposed in this notice.

Positive Control Areas (PCA)—VFOP Class A Airspace. Operations in a PCA must be conducted under IFR and are subject to ATC clearances and instructions. ATC service is provided to all aircraft.

Terminal Control Areas (TCA)—VFOP Class B Airspace. Operations in a TCA may be conducted under IFR or VFR. However, ATC service is provided to all aircraft and all aircraft are subject to ATC clearances and instructions.

Airport Radar Service Areas (ARSA)—VFOP Class C Airspace. Operations may be conducted under IFR or VFR; IFR aircraft are subject to ATC

clearances and instructions. VFR aircraft must maintain two-way radio communications and are subject to certain ATC instructions. ATC separation is provided to all aircraft operating under IFR and, as necessary, to any flights operating under VFR when any aircraft operating under IFR is involved. VFR aircraft are provided with traffic advisories as necessary. Safety alerts are provided to all aircraft.

Airport Traffic Area—VFOP Class D Airspace. Operations may be conducted under either IFR or VFR; all aircraft must be operating to or from an airport in the air traffic area or have an authorization from the primary airport tower. All aircraft (except those operating to or from an uncontrolled airport within an air traffic area are subject to ATC clearances and instructions. ATC separation is provided to aircraft operations conducted under IFR and to takeoff and landing operations. All aircraft are provided with safety alerts. Traffic advisories are provided on a controller-workload-permitting basis.

General Controlled Airspace—VFOP Class E Airspace. For the purpose of showing comparisons with the reclassification being proposed under this NPRM, the term "General Controlled Airspace" is used to describe U.S. airspace designations within which the pilot operating requirements and ATC services are common to the class of airspace recommended by the VFOP. This designation or classification does not presently exist in the United States. General Controlled Airspace may be considered to be that designated as Colored Federal Airways, very high frequency omnidirectional range (VOR) Federal Airways, the Continental Control Area, Control Areas Associated with Jet Routes Outside the Continental Control Area, Additional Control Areas, Control Area Extensions, Control Zones Without Operating Control Towers, Transition Areas, Area High Routes Outside the United States, and Area Low Routes. Operations may be conducted in these airspace designations under IFR or VFR. ATC separation service is provided only to aircraft operating under IFR. ATC traffic advisory service, however, is provided to other aircraft upon request and on a controller-workload-permitting basis.

Special Use Airspace (SUA)—VFOP, Each Nation Would Use Existing Names. Certain types of airspace in this category are defined in, and designated under, part 73 of the FAR (prohibited areas and restricted areas). The FAA also establishes other types of SUA under nonrulemaking procedures such as alert areas, warning areas, controlled firing areas, and military operations areas. Operations within SUA can be conducted under IFR and VFR, and ATC services are provided only on a case-by-case basis. Section 91.105, visibility and distance from clouds minimums apply.

Uncontrolled Airspace—VFOP Class G Airspace. Airspace which is not otherwise designated as a continental control area, control area, control zone, terminal control area, or transition area, within which some or all aircraft may be subject to ATC. Under this proposal, Class G would become all navigable airspace not otherwise designated as Class A, B, C, D, E, or SUA.

Discussion of Comments to the Advance Notices

The comments discussed below were received in response to the three advance rulemaking efforts. These separate efforts are being combined into this action and are being published as one NPRM. Several comments were received which are no longer applicable to this proposal, as they addressed proposals originally contained in the ANPRM's which have been acted upon through other rulemaking actions.

The Air Line Pilot Association (ALPA) commented that the proposal lacks commonality with the Canadian classification and the proposed ICAO airspace system and suggested that it was premature to adopt an airspace classification before there is international agreement. Further, ALPA recommended that the airspace reclassification proposal be used only as a guide for further international consideration.

However, the Aircraft Owners and Pilots Association (AOPA) suggested that international standardization can be achieved and that it is reasonable to assume that an airspace designator should be necessary for each category of airspace that is common in its operations, equipment, and pilot qualification requirements. The VFOP-recommended airspace classification, AOPA suggests, has sufficient merit to justify consideration for some degree of incorporation in the U.S. system. AOPA recommended that the United States give first consideration to obtaining international agreement on an acceptable list of standardized airspace definitions keyed to an alphabetical identifier and should not proceed further with the airspace reclassification proposed in Notice No. 85–5 until such a consensus is reached by the VFOP. Also, AOPA stated, the FAA should achieve standardization, where possible, with the Canadian airspace definitions. However, AOPA stated, the FAA should not adopt an indentification for SUA similar to that implemented by Canada. Furthermore, AOPA commented, the elimination of existing airspace names, airspace subcategories, and airspace acronyms should be a product of any reclassification effort if simplification is to be achieved. It is entirely too late, AOPA commented, for a unilateral U.S. implementation to have any significant influence on the ICAO VFOP recommendations, and the proposal's goal of international commonality will be difficult to achieve. AOPA concluded that there is no reason to go foward with rulemaking that does not contribute to that goal.

An FAA representative, as a member of the VFOP, met with other VFOP members in a working-group-of-the-whole conference in October 1985 and with the complete VFOP in July 1986 in Montreal. Also in attendance were the representatives of Canada, United Kingdom, Republic of Germany, Australia, New Zealand, France, U.S.S.R., and various representatives of international user organizations. Of concern to some of the members of the VFOP working group was the U.S. airspace classification proposal contained in Notice No. 85–5 and the adopted Canadian airspace classification system. The concerns were for the United States and Canadian deviations from the VFOP's previously adopted airspace classification recommendations. The working group reviewed various recommendations of individual members; however, it basically sustained the previously adopted recommendations. The VFOP's recommendations have been circularized as an official ICAO proposal to its various member states.

The FAA reviewed the VFOP recommendations and recognized that its original proposals would have to be modified in order to achieve the stated goals of international airspace reclassification. The required modifications, as reflected in this notice, are relatively few and the FAA views them as being in the spirit of the NAR recommendations that precipitated the original proposals.

While one commenter believed that changing statute-mile measurements to nautical-mile measurements appeared to be a change for change's sake, AOPA and another commenter generally supported the aspects of the proposal to standardize the dimensions of air traffic areas, control zones, and surface areas of ARSA's. AOPA's support was qualified, however, by the condition that the ceilings of these airspace areas

would be established at 3,000 feet above the surface. The FAA proposes to establish those ceilings at 4,000 feet above the surface. Additionally, AOPA objected to the aspects of the proposal which would change airspace lateral dimension descriptions from statute miles to nautical miles because it believed the proposal would result in an increase in the size of the affected airspace; e.g., an air traffic area changing from a 5-statute-mile radius from the airport to a 5-nautical-mile radius would add airspace to that air traffic area. AOPA recommended that the FAA consider designating any future air traffic area with a 4-nautical-mile radius which would represent only an 8 percent decrease in radius and 15 percent decrease in area size. AOPA also stated that it favors using a 4-nautical-mile radius control zone for new locations and retention of existing control zone sizes except where significant advantages can be shown to result from change.

The FAA is convinced that safety is enhanced by standardization and is proposing to adopt the NAR recommendations to describe airspace assignments using nautical-mile measurements. Accordingly, the FAA is proposing to convert each control zone from statute-mile measurements to equivalent nautical-mile measurements; e.g., one statute mile would become .87 nautical mile. Further, the FAA no longer believes that there is a need to universally describe a control zone in terms of a 5-mile radius. In some cases, this airspace may be excessive, while in others it may be insufficient to contain instrument procedures.

Adoption of the aspects of this proposal dealing with control zones would eventually lead to the elimination of control zones as an airspace classification. During the transition, prior to the elimination of control zones, the FAA would promulgate rules at the regional level to describe control zones in terms of required airspace. This procedure is consistent with the current practice of establishing and describing control zones.

Further, this notice proposes to amend the operating rules of part 91 associated with operations in an air traffic area to specify the rules for operations within specific classes of airspace. The control zone(s) and surface area associated with each TCA and ARSA would be subjects of individual rulemaking actions designed to make those areas standard in size except as required by topography and local conditions. This is viewed as a transitional step leading to the elimination of control zones as an airspace classification. Additionally, a control zone with an operating control tower, at locations other than surface areas of TCA's or ARSA's, would be reclassified as Class D airspace. For the most part, the operating requirements currently applicable to an airport traffic area would apply to Class D airspace. As a result, the term "airport traffic area" would become superfluous and is proposed to be eliminated. The two-way radio communications requirement for operations to or from the primary airport is extended to include operations to or from a satellite airport. Control zones at locations without operating control towers would be reclassified as Class E airspace and the existing rules for operating in that airspace would effectively remain unchanged.

Several commenters, including the National Business Aircraft Association (NBAA), endorsed the proposals. ALPA objected to the proposal on the grounds that the proposed airspace reclassification would be as confusing as the current system. ALPA's view was shared by another commenter who was of the opinion that the proposal, if adopted, would produce more confusion rather than simplification. Further, ALPA stated that the task group did not make a specific recommendation urging the United States to reclassify its airspace.

The FAA recognizes that the NAR Task Group did not specifically urge the FAA to adopt their recommendations; however, the task group did recommend the FAA pursue their recommendations in the light of the Canadian airspace reclassification and the work being done by the ICAO in the airspace classification area. Additionally, the FAA recognizes that there could be potential for confusion if the reclassification were to be accomplished as presented in the ANPRM's because of the significant differences in the ICAO and the Canadian approaches. As mentioned above, the FAA has modified the proposals by aligning the airspace types with the ICAO approach.

ALPA also commented that the classification of ARSA's remains unresolved. AOPA recommended in its comments that the FAA classify an ARSA as Class C airspace. AOPA also suggested that the FAA specify that terminal radar service areas (TRSA) would continue to exist only on an interim basis, until full implementation of the ARSA Program is achieved.

Under this proposal, ARSA's would be reclassified as Class C airspace; however, each TRSA-to-ARSA conversion would be accomplished under separate rulemaking actions. Any remaining TRSA would be a candidate for disestablishment.

ALPA commented that the ANPRM failed to indicate how the FAA would ensure that all pilots would acquire the basic knowledge to operate safely in a reclassified airspace system. The Experimental Aircraft Association (EAA) commented that it was of the opinion that the airspace classification would be a burden on pilots and flight schools but a boon to textbook and chartmakers. However, AOPA commented that it is convinced that implementation of a standardized airspace classification could be in the best interest of all users of the NAS and that the incremental cost of implementing the proposal is insignificant when compared to the obvious benefits in reduced complexity. AOPA also stated that the cost impact would be minimal to pilots and other aviation-related activities as much of that reeducation would be accomplished by voluntary efforts of the aviation press. AOPA encouraged the FAA to utilize safety seminars, FAA General Aviation News, and direct mailings to describe and detail the new airspace classification system to the active pilot population.

In the event the FAA adopts the proposals contained in this notice, appropriate educational efforts similar to those recommended by the AOPA would be completed prior to the effective date of any final rule dealing with the reclassification of airspace. A draft implementation plan has been placed in Docket No. 24456 and it addresses the principal areas upon which the FAA would concentrate its educational efforts.

ALPA objected to the aspect of the proposal that would allow special VFR (SVFR) operations at some TCA locations where SVFR is currently prohibited by § 93.113. ALPA stated that if such a provision were to be adopted, then safety would be degraded.

The regulation in part 93 that prohibits SVFR operations in specific control zones is not proposed to be changed except for its incorporation into part 91. SVFR operations would continue to be prohibited at those locations listed in § 93.113 if the proposals in this notice are adopted.

EAA commented that the current plain language airspace description system is a well understood system, and since English is the international aviation language, the ICAO airspace classification system should be in plain English.

Any airspace reclassification adopted in the United States would, of course, be

based on the English language. While one of the goals of this notice is to increase international commonality of classifications, ICAO rules and conventions are not proposed nor established through this or any other U.S. rulemaking proposal or action.

EAA commented that it sees no benefit in allowing ultralight operations above 3,000 feet above the surface in what is control zone airspace under the present airspace structure but what could be classified under the proposed airspace reclassification as "general" controlled airspace.

The provisions of part 103 which restrict ultralight vehicle operations in any TCA, ARSA, air traffic area, and PCA would remain in effect under both proposals contained in Notice Nos. 85–4 and 85–5. This means that, under these proposals an ultralight vehicle could continue to operate above these airspace areas provided the airspace above the area is "general" controlled airspace. The proposal in this notice regarding ultralights merely changes the language of part 103 to reflect the proposed new airspace designations. This notice does not propose to change the existing rules for operating ultralights except that which occurs due to the proposed use of 4,000 feet above the surface as a ceiling for Classes D and E surface areas.

EAA also suggested that the proposed distance from cloud minimums for operations in TCA airspace (clear of clouds) would be feasible only if proposed ATC separation standards were in effect in that airspace.

The FAA has not proposed any new separation standards in Notice Nos. 85–4, 85–5, or 85–15. Currently, ATC provides Stage III separation service in TCA's and is planning to continue to provide similar services in the reclassified TCA airspace.

AOPA commented that the combining of air traffic areas, ARSA's, TRSA's, and control zones into Class C airspace would result in the FAA applying the more restrictive requirements of these types of airspace to the currently less restrictive airspace. For example, the communications requirements associated with an ARSA would also become associated with a simple air traffic area or control zone.

The proposals, if adopted as presented in the notices, would require a pilot to establish and maintain two-way radio communications with ATC prior to operating in the reclassified airspace of an airport traffic area with an operating control tower regardless of the operation being planned or conducted in that airport traffic area.

This aspect was explicitly recommended by the NAR Task Group. However, the FAA has modified its proposals concerning Class C airspace to classify only those control zones associated with ARSA's as Class C airspace because of the commonality of air traffic services provided in that airspace. This means that if this proposal is adopted the lateral boundaries of the surface area of an ARSA, associated control zone, and associated air traffic area would be reviewed and appropriately adjusted so that Class C airspace, which would replace these areas, would be represented on charts by a single "line." However, such actions would be accomplished under separate airspace rulemaking proposals. Further, other control zones currently associated with air traffic areas, but not associated with an ARSA or TCA, would become Class D airspace. As recommended by the NAR task group, the same two-way radio communications requirement of proposed Class C airspace would apply to Class D airspace. The services presently provided in air traffic areas would continue to be provided but within the entire Class D airspace area.

AOPA stated that the FAA's discussion of SUA in the proposal was misleading in regard to the statement that "* * * ATC separation service is not provided between aircraft operating in SUA."

The FAA acknowledges that the statement was partially incorrect. Appropriate separation in SUA would be provided for operations conducted under IFR in controlled airspace. However, ATC does not route nonparticipating IFR traffic through an active SUA.

AOPA commented that the proposal incorrectly implies that there is a further requirement for a pilot to obtain an ATC authorization before overflying an air traffic area.

Since an overflight operation could be construed as an operation conducted above an air traffic area, the statement in the proposal addressed by AOPA could be misunderstood. Section 91.85(b) limits operations within an air traffic area to those conducted to or from an airport in the air traffic area; thus, any operation conducted through an air traffic area for any other purpose, including transiting or "overflights" may be conducted only under an ATC authorization.

ALPA commented that the charting of a reclassified system would be a tremendous and costly undertaking which would take years to accomplish. The FAA does not agree with this assertion. The projected costs and implementation period are discussed below in a summary of the draft regulatory evaluation and in more detail in the regulatory evaluation document contained in the docket.

ALPA commented that it strongly supports the terminal airspace proposals contained in Notice No. 85–4 as a positive step toward standardization and simplification of the ATC system, except for the NAR recommendation to change the name of an air traffic area to control tower area. Stating that while the recommended name change would be more indicative of the area and its applicability, ALPA suggested that the change appears to be a change for change's sake and that it would involve considerable pilot reeducation. AOPA also objected to the proposed term "control tower area," as it believed that the resulting abbreviation, "CTA," is in common use internationally to represent a type of controlled airspace. However, EAA commented that it supports the proposal to change the name of an air traffic area to a control tower area.

The FAA recognizes the potential for some confusion that would be associated with the abbreviation for the term "control tower area" (CTA) and the international abbreviation for the term "control area" (CTA). However, as stated previously, the FAA is proposing to eliminate the term "airport traffic area, " and to reclassify such airspace according to the type of airspace for which the airport qualifies. This notice does not propose to adopt the term "control tower area."

AOPA objected to the aspect of the proposals that would limit the application of the SVFR provisions of § 91.107, when applied within the surface area of a TCA (Class B airspace), to the airspace below 3,000 feet above the surface within 5 miles of the primary airport. Instead AOPA suggested that SVFR operations should be authorized in Class B airspace within the entire surface area of the TCA up to 3,000 feet above the surface.

The FAA agrees with the AOPA comment and has modified the proposal so that SVFR operations could continue to be authorized by ATC in portions of the surface areas of Class B, C, D, or E airspace as specified in an ATC clearance, provided SVFR operations are conducted utilizing the appropriate required equipment and are not prohibited by § 93.113.

AOPA objected to the proposed definition of SVFR referring to Class B, C, or D terminal airspace, and which, AOPA stated, implies that there is also Classes B and C en route airspace. AOPA recommended that airspace class

identifiers be constructed so as to eliminate the need to relate airspace to terminal or en route designations. AOPA also suggested that the NAR recommended changes to the VFR Minima tables in §§ 91.105 and 103.23 which associate the proposed Class B airspace cloud clearance minima above and below 10,000 feet MSL with the terms "en route" or "terminal," are unnecessary. AOPA suggested that the FAA delineate the different minima at 10,000 feet MSL and in this way serve the objective of simplification and contribute to the achievement of commonality.

Additionally, AOPA commented that while it generally supports the proposed pilot certification and qualification requirements for conducting operations in a reclassified airspace system, it objected to the implication that the pilot qualification requirements for operations in Class C airspace would only apply to operations in Class C terminal airspace. This implication, AOPA suggested, further implies that there is also en route Class C airspace.

The FAA partially agrees with the AOPA comments and is proposing airspace classifications and associated VFR minima tables that refer only to the appropriate airspace classification and the differing requirements of Class E airspace above and below 10,000 feet MSL. While Classes B, C, and D airspace are inherently terminal airspace classifications, the terms "en route" and "terminal" are not used to describe airspace in this proposal.

AOPA commented that the current 5-mile visibility requirement for operations conducted in controlled airspace above 10,000 feet MSL does not apply at and below 1,200 feet above the surface, and that Notice No. 85–5 would delete this exclusion. AOPA suggested that this exclusion be retained.

The proposal in Notice No. 85–5 would simplify the visibility requirements by associating them with operations in specific airspace classifications. The surface to 1,200 feet above the surface exclusion would not apply in proposed designations of Classes A, B, C, and D airspace in order to maintain uniformity of operations within those airspace areas. However, under the proposal in this notice the exclusion would continue to apply to Class E airspace.

AOPA objected to the different ceilings for the Class C airspace designations such as 4,000 feet above the surface for ARSA designations, and 3,000 feet for the other Class C airspace designations that would replace the present air traffic areas and control zones. Another commenter suggests that ARSA's be classified as Class C airspace and that the ceiling of all Class C airspace be 3,000 feet above the surface.

The FAA agrees that ARSA's should be classified as Class C airspace and this proposal reflects that agreement. Additionally, for the sake of uniformity of airspace designations, the FAA is proposing that the ceilings of Classes C, D, and E airspace areas that replace control zones be designated at the MSL equivalent of 4,000 feet above the elevation of the airport for which the airspace is designated. In regard to a control zone for a TCA primary airport, such airspace would be replaced with Class B airspace designated to the surface. However, the ceiling would be that which was designated for the entire TCA.

While, AOPA commented that it generally supports the criteria proposed in Notice No. 85–5 for selecting candidate locations for conversion from Class C to Class B, it objects to the language in Notice No. 85–5 which suggests that the Department of Defense would provide the criteria for making military airfields candidates for Class B airspace. AOPA suggested that the FAA establish, and make public, clear criteria based on operations and other factors, against which military Classes B and C airspace designations could be evaluated for implementation or continuation.

While the FAA has published criteria for the establishment of an ARSA and a TCA, there are no plans to establish similar criteria for the classes of airspace. Under this proposal, any class of airspace could be designated at a given location or area. For example, Class B airspace could be established in the en route structure and Class A airspace could be established in a terminal environment. However, in any case each such action would have to be accomplished individually under the appropriate rulemaking procedures.

AOPA commented that the floors of "general controlled airspace," should be made consistent with the floors of the similarly designated Canadian airspace by excluding the airspace below 3,000 feet above the surface except for the airspace presently designated as control zones and transition areas. As discussed herein above, this aspect was addressed in Notice No. 88–2 but dropped from the final rule and may be the subject of a separate proposal to follow this notice. For the purpose of the airspace reclassification proposal, the FAA did not propose to establish a common base for controlled airspace as suggested by AOPA and as exists in Canada. Canada is currently reviewing its airspace structure including the established common base of controlled airspace toward reaching commonality with the U.S. system and ICAO planning.

EAA suggested that the total number of TCA's be reduced by redesignating some TCA's as ARSA's. By doing this, EAA stated, pilots would benefit because there would no longer be a transponder requirement in the affected airspace.

TCA's are established to provide more efficient control in terminal areas where there is a large volume of air traffic and where a high percentage of that traffic is large turbine-powered aircraft. Therefore, the elimination of some TCA's would create a substantial adverse impact on the safe and efficient control of air traffic in those high volume terminal areas. Further, Amendment No. 91–203 requires the use of Mode C transponders in ARSA's by December 31, 1990.

The Department of the Navy, Office of the Chief of Naval Operations (CNO) commented that it had no objections to the proposed terms for use in describing international airspace designations for clarification purposes.

However, the CNO did state that it would view any change to existing airspace boundaries, regulatory altitudes, etc., as an FAA initiative to encroach upon airspace historically reserved for Department of Defense use.

Under Executive Order (E.O.) 10854, the FAA may not designate controlled airspace in international airspace without first consulting with the Departments of State and Defense. While this proposal would not in itself enlarge controlled airspace outside of the United States, it would amend the regulations that are used to establish/alter airspace descriptions over the high seas. However, the actual establishment or alteration of airspace that is under the auspices of E.O. 10854 would only take place after appropriate consultation with the Departments of State and Defense.

ALPA commented that the NAR recommendations dealing with adopting the term "offshore control area," establishing a uniform base altitude for such areas, and the naming of offshore control areas are practical and reasonable and suggested that the FAA further pursue the recommendations. ALPA suggested that the FAA await final disposition of the NAR recommendations dealing with reclassifying the U.S. airspace structure until further consideration is given to including airspace designations outside the United States. However, AOPA suggested that the proposal be combined

with the proposal dealing with U.S. airspace reclassification.

In the interest of standardization and simplification, the FAA is proposing to reclassify airspace designations outside the United States as Class E airspace except where otherwise designated, as in TCA's (Class B airspace), ARSA's (Class C airspace), and control zones with operating control towers (Class D airspace) that extend outside of U.S. airspace.

The Air Transport Association (ATA) commented that it concurred with the proposals dealing with the designation of controlled airspace outside the United States provided there was no linking of § 91.70 provisions with the proposal. Currently § 91.1 makes § 91.70(c) applicable to U.S.-registered aircraft operations conducted in airspace outside the United States; i.e., indicated airspeeds greater than 200 knots are not permitted in the airspace underlying a TCA. This notice does not propose to modify the applicability of § 91.70 to operations outside the U.S.

The Air Traffic Control Association (ATCA) commented that it believes the proposal dealing with airspace designations outside the U.S. would enhance safety by reducing the likelihood of misunderstanding and that costs should be reduced by a resulting decrease in the amount of printed matter and required revisions. While stating that it believed that small businesses, non-profit organizations, or governmental jurisdictions would not be significantly impacted, ATCA was unsure of the cost impact on pilots and other related personnel. However, ATCA believes that such impacts could be minimized if adequate advance notice of changes were given prior to implementation.

The FAA will not implement any general reclassification of airspace until it is convinced the using public and its own staffs are thoroughly familiar with the changes.

ATCA recommended that the FAA develop any required charting changes in consultation with the affected users prior to issuing an NPRM.

The FAA believes that changes to existing charting specifications will be minimal and not of sufficient substance to warrant consultation with users prior to issuing an NPRM. However, if the FAA subsequently finds it necessary to produce prototype charts containing such changes, then copies would be made available for review and comment.

Discussion of Pertinent NAR Recommendations

The full text of the NAR recommendations germane to this proposal are contained in Notice Nos. 85–4, 85–5, and 85–15 as well as in the appropriate NAR staff studies. While review of these documents is not necessarily a prerequisite for understanding the proposed rules contained in this notice, interested parties may elect to review these relevant documents with this notice. A copy of each relevant staff study is in Docket No. 24456.

NAR 1–5.2.1 and 1–5.2.2—Airspace Reclassification. The NAR Task Group recommended that the FAA consider reclassifying its airspace system by either adopting the Canadian airspace classification system or one similar to it. The group suggested further that such consideration should be accomplished under the NAR with appropriate industry participation.

The FAA accepted these recommendations by including them as topics of the subtask groups under NAR Task Group 1–7.

NAR 1–7.1.1 and 1–7.1.2—Airspace Reclassification. The NAR Task Group recommended that the FAA and NAR pursue an airspace reclassification concept and to utilize the airspace reclassification model developed by Task Group 1–7.1.

Note: Task Group 1–7.1's Recommended Airspace Classification Model, appears in Appendix B of Task Group 1–7.1 Staff Study and a copy of which is in the public docket. For the purpose of this NPRM, the group's airspace model was utilized in developing Table 1—Airspace Classes.

The FAA has accepted these recommendations by virtue of issuing Notice No. 85–5 and the proposals contained in this notice.

NAR 1–7.2.2—TRSA Replacement. This recommendation would require a pilot, operating an aircraft in the class of airspace adopted for ARSA's that had replaced TRSA's, to participate in the ATC services provided in that class of airspace.

Note: While not established under any regulatory process, a TRSA generally consists of airspace already established under part 71 wherein the FAA provides radar vectoring, sequencing, and separation on a full-time basis to all aircraft operating under IFR and participating aircraft operating under VFR.

The FAA has accepted this recommendation as an aspect of this proposal.

NAR 1–7.2.4—SVFR Limits. This recommendation sought to keep the operational provisions of SVFR as applicable in the class(es) of airspace adopted for control zones. However, it would limit the application of SVFR to that airspace below 3,000 feet above the surface within a 5-mile radius of the affected airport.

Under this proposal all control zones would be replaced by Classes B, C, D, and E surface areas. Under procedures that would be developed for SVFR, a controller would limit the effectiveness of a SVFR clearance to that airspace below 4,000 feet above the surface. For example: "Cessna 234V cleared out of Class B (or C, or D, or E) airspace 10 miles west, maintain special VFR at or below 2,500 feet, etc." The FAA has opted for 4,000 feet above the surface versus 3,000 feet, as recommended by the task group, in order to promote standardization with the ceilings of ARSA's and with the proposed vertical limit of the Class E surface area prohibition, below which ultralight operations would have to be operated under an ATC authorization.

Further, the FAA disagrees with the aspect of the NAR recommendation that would limit SVFR to that airspace within 5 miles of the airport. The FAA has chosen to limit the effectiveness of SVFR to the lateral boundaries of the surface area as in most cases, this would be the point where a pilot would likely encounter uncontrolled airspace and if improved meteorological conditions have not been encountered, the pilot could continue flight in that airspace under the same meteorological conditions as authorized under a SVFR clearance. Also, many TCA's have surface areas that extend beyond 5 miles. A mandatory SVFR clearance limit of 5 miles from the airport could create situations whereby a pilot would reach 5 miles and not encounter visual meteorological conditions but would require an IFR ATC clearance to proceed further or another SVFR clearance to return to the airport. The FAA believes it more efficient to allow the effectiveness of a SVFR clearance to extend to the boundaries of controlled surface area to enable a pilot to continue flight, if desired by the pilot and otherwise permitted by the rules.

NAR 1–7.2.5—SVFR Definition. This recommendation would define the term "SVFR Conditions" in the Pilot/Controller Glossary (Airman's Information Manual) and in part 1 of the FAR as weather conditions which are less than basic VFR minima and in which some aircraft are permitted to operate under VFR.

This recommendation is accepted and proposed in this notice.

NAR 1–7.2.6—SVFR Definition. This recommendation would define the term "SVFR Operations" in the Pilot/Controller Glossary (Airman's Information Manual) as any operation conducted under VFR, in SVFR conditions, in accordance with an ATC clearance issued in response to a pilot's request to conduct such an operation.

This recommendation is accepted and will be reflected in appropriate publications if the proposed rules in this notice are adopted and issued as final rules.

NAR 1–7.2.7—Revise § 91.107. This recommendation would revise § 91.107 to eliminate the term "control zone."

This recommendation is proposed in this notice. The airspace of a control zone, under this proposal, would be classified according to the specific safety conditions, traffic density, and degree of ATC involvement needed to provide the appropriate level of safety in that airspace. Accordingly, the single term "control zone" would no longer be used in the FAR.

NAR 1–7.2.8—Revise § 103.17. This recommendation confirms the existing prohibition of ultralight operations in the classes of airspace adopted for control zones, air traffic areas, ARSA's, PCA's, and TCA's.

Effectively, this recommendation is accepted and the FAA proposes that ultralight operations would continue to be permitted in such airspace areas as they are under current rules. This notice proposes to amend § 103.17 to prohibit, unless otherwise authorized by ATC, ultralight operations in Classes A, B, C and D, and below 4,000 feet above the surface in any Class E airspace area that extends upward from the surface.

NAR 1–7.2.9—Recommended VFR Minima. This recommendation proposes that the VFR Minima tables in existing §§ 91.105 and 103.23 be revised to reflect a reclassified airspace system. Further, this recommendation would, for operations conducted under VFR in Class B airspace, reduce the minimum distance from clouds that a pilot must currently maintain to that of simply maintaining clear of clouds. However, the NAR Task Group recommended that the provisions of existing rules that contain exclusions to the basic VFR minima for helicopters *not* be amended.

This recommendation is effectively accepted including the reduction of cloud clearance minima for operations in a TCA (Class B airspace). The FAA views the relaxation of minima as an enhancement to safety as it has the potential to reduce the number of times that pilots operating under VFR would have to alter course or assigned heading/route in order to remain a specific distance from clouds.

NAR 1–7.3.1—Pilot Certification. The NAR Task Group recommended that the regulatory requirements for the present certification of student, private, instrument, commercial, and airline transport pilots be retained within any reclassified airspace system.

This recommendation is accepted and proposed in this notice.

NAR 1–7.3.2—Pilot Qualifications for Operations in PCA's. The recommendation confirms, as necessary, the existing requirements under § 91.97 that operations conducted in the class of airspace adopted for PCA's, must be conducted under IFR.

This recommendation is accepted and proposed in this notice.

NAR 1–7.3.3—Pilot Requirements for Operations in TCA's. This recommendation would reduce the existing minimum pilot qualifications for operations conducted under VFR in any TCA to that of a student pilot certificate.

This recommendation is effectively accepted but with certain conditions. These conditions are in accordance with the pilot qualification requirements of a related action. Amendment Nos. 61–80, 71–11, and 91–205, established all TCA's as one type and allows certain, limited student pilot activity in a TCA. These amendments established that a student pilot certificate will qualify such a pilot to receive authorization for flight through TCA's (proposed Class B airspace) or to or from most airports within the TCA's. However, student pilot operations to or from certain high traffic density airports in certain TCA's will continue to be prohibited as is the case under the current rule. In any case, all student flight activity will be required to be conducted under an appropriate logbook endorsement from his/her instructor, as well as under an ATC authorization.

NAR 1–7.3.4—Pilot Qualifications for Operations in Control Zones (with operating control towers,) ARSA's, and air traffic areas. This recommendation confirmed the existing rules pertaining to the minimum pilot qualifications for operations in the classes of airspace adopted for ARSA's, air traffic areas, and control zones with operating control towers.

This recommendation is accepted.

NAR 1–7.3.5—Pilot Requirements for Operations in Other Designated Controlled Airspace. This recommendation confirmed the existing rules pertaining to pilot qualifications for operating in the class(es) of controlled airspace adopted for airspace areas other than PCA's TCA's, ARSA's airport traffic areas, and control zones without operating control towers.

This recommendation is accepted.

NAR 1–7.3.6—Pilot Qualifications for Operations in Uncontrolled Airspace. This recommendation confirmed the existing rules pertaining to pilot qualifications for conducting operations in uncontrolled airspace.

This recommendation is accepted.

NAR 1–2.1.3—TCA Operating Requirements. The NAR Task Group recommended that the classification of TCA's, Group I and Group II, be eliminated and that all such airspace classifications be designated as one class of terminal airspace with the following equipment and flight requirements:

(a) A two-way radio capable of communicating with ATC on appropriate frequencies;

(b) Except for helicopter operations, a VOR or TACAN receiver;

(c) Except for helicopter operations conducted under a letter of agreement with ATC, a 4096 code transponder with Mode C automatic altitude reporting equipment;

(d) Except for student pilots with pilot logbook endorsement by a certified flight instructor that he/she has satisfactorily demonstrated ability to operate in this class of airspace, a private pilot certificate would be required as a minimum qualification;

(e) Large turbine-engine powered airplane to or from a primary airport would be required to operate at or above the designated floors while within the lateral limits of this class of airspace;

(f) Operations conducted in the airspace underlying this class of airspace would be limited to indicated airspeeds of 200 knots (230 mph) or less; and

(g) Operations within this class of airspace may, if authorized or required by ATC, be conducted at indicated airspeeds greater than 250 knots (288 mph);

This recommendation is effectively adopted, in part, through other FAA initiatives contained in Amendment Nos. 61–80, 71–11, 91–203, and 91–205.

Amendment Nos. 61–80, 71–11 and 91–205, which were published as a single rule, revised the classification and pilot and equipment requirements for conducting operations in TCA's. Specifically, that rule: (1) Established a single-class TCA; (2) required the pilot-in-command of a civil aircraft to hold at least a private pilot certificate, except for a student pilot who has received certain documented training; and, (3) eliminated the helicopter exception from

the minimum navigational equipment requirements. The provisions of that rule are being phased in with the final provisions becoming effective July 1, 1989. Amendment No. 91–203 eliminated the helicopter exception to the transponder and Mode C requirements for operating in a TCA effective July 1, 1989.

NAR 1–2.1.9—TCA Name. The NAR Task Group recommended that the term "Terminal Control Area" and current definition be retained and associated with this class of airspace.

In the interest of simplification of airspace terms and commonality with trends in the international theatre, the FAA believes it inappropriate to retain airspace names as well as the proposed class designator. Therefore, this recommendation is not adopted. TCA airspace would be classified as Class B airspace under this proposal.

NAR 1–2.3.1—Control Tower Area. The NAR Task Group recommended that the term "airport traffic area" or "ATA" be changed to "control tower area."

For the reasons stated for non-adoption of NAR Recommendation 1–2.1.9, this recommendation is also not adopted. The term "airport traffic area" would be eliminated under this proposal and replaced with the appropriate airspace depending on the requirements within the airspace and the ATC services available.

NAR 1–2.3.2—Two-way Radio Communications Requirements in Airport Traffic Areas. The NAR Task Group recommended that the two-way radio communications requirements for operations in the vicinity of an airport with an operating control tower be the same regardless of what entity operates the control tower. Furthermore, the NAR Task Group recommended amending § 91.87 of the FAR to clarify that pilots would be complying with the two-way communications requirements by contacting the ATC facility responsible for the airspace involved.

This recommendation is accepted and proposed in this notice.

NAR 1–2.3.4—Control Tower Area Definition. The NAR Task Group recommended that the definition of an airport traffic area (control tower area) in part 1 of the FAR be amended to make the airport reference point (geographic position) identical to that of a control zone, and to define the horizontal radius of that area as 5 nautical miles versus 5 statute miles.

This recommendation is not adopted. Airport traffic areas would be eliminated and replaced by the appropriate class of airspace designator as discussed previously.

NAR 1–2.3.5—Control Zone Airspace Limits. The recommendation would amend the definition of the term "control zone" in part 71 of the FAR to make its ceiling identical to that of an airport traffic area and to define that any horizontal radius used to describe a control zone to be normally 5 nautical miles versus normally 5 statute miles, and to require the use of nautical miles versus statute miles to describe any extension to a control zone.

This recommendation is not adopted. Under this proposal the term "control zone" would be eliminated. Each Class C and D airspace surface area description would be described with a "4,000-foot cap"; however, the cap would be expressed as an equivalent MSL altitude. As stated previously, the MSL altitude representative of 4,000 feet above the surface has been selected for the purpose of standardization and to continue to maintain the integrity of instrument operations in airspace that was originally designated to protect such operations. Class B and Class E airspace surface areas would not have a regulatory 4,000-foot cap. Instead, a Class B and E airspace surface area would have an effective "procedural cap" at a relatively equivalent altitude for the purposes of placing vertical limits on SVFR operations for the specific airport. A Class E surface area would effectively be capped at 4,000 feet above the airport elevation through the proposed regulatory language for part 103 which would prohibit ultralight operations below 4,000 feet above the surface in a Class E surface area within 5 miles of the airport. Additionally, each such airspace area would be expressed in nautical miles and reviewed as to whether its existing size should be increased or decreased to reflect the actual airspace needed to encompass instrument procedures.

NAR 1–2.3.7—Nautical Miles Versus Statute Miles. The NAR Task Group recommended that for the sake of standardization and consistency of aeronautical references, nautical miles (versus statute miles) be used in Federal Airway, control zone, and transition area airspace descriptions.

This recommendation is effectively accepted since under this proposal all airspace assignments in part 71 would be described with nautical-mile distances.

NAR 2–3.1.13—Global Positioning System (GPS) Use In TAC's. The NAR Task Group recommended that, following certification of GPS for use as a sole navigation aid, § 91.90 be changed to allow its use in TCA's.

This recommendation is not adopted. GPS is not anticipated to be certified for use as a sole NAVAID within the NAS in the near future. Although this recommendation is not adopted, should GPS or any other navigation system become certified for sole use within the NAS, such system(s) would be incorporated, as appropriate, at that time.

NAR 3–2.1.1—Offshore Airspace Nomenclature. This recommendation would rename the airspace descriptions in part 71 of the FAR for "additional control areas," designated in international airspace for which the United States has jurisdiction through ICAO regional agreement, as "offshore control areas."

This recommendation is essentially accepted and airspace designations outside the United States would be classified as an appropriate class of airspace as would be the domestic airspace.

NAR 3–2.1.2—Offshore Control Area Uniform Base. The NAR Task Group recommended that offshore control areas have a uniform base of 1,200 feet above the surface unless otherwise designated.

This recommendation would be implemented to the extent possible. However, floors of designated airspace outside the United States would continue to be established in concert with the Department of Defense requirements and in consultation with the Department of State.

NAR 3–2.1.3—Offshore Control Area Identification. The NAR Task Group recommended that offshore control areas be identified only as named areas, such as the current North Atlantic, Santa Barbara, etc., and that names of airspace descriptions such as Control 1142, Control 1154, Control 1217, etc., would be retained only for airspace descriptions that function as routes.

This recommendation is accepted. However, FAA procedures for naming an airspace description such as Control 1142 would be reviewed in concert with the ICAO-recommended practices for naming routes in offshore airspace.

NAR 3–2.1.4—Offshore Airspace Classification. The NAR Task Group recommended that the offshore control areas be classified as Class A, B, C, D, etc., as appropriate.

This recommendation is accepted and proposed in this notice. With few exceptions, most of the airspace would be classified as Class E airspace.

ICAO Considerations

As part of this proposal relates to navigable airspace outside the United States, this notice is submitted in

consonance with the ICAO International Standards and Recommended Practices.

Applicability of International Standards and Recommended Practices by the Air Traffic Operations Service, FAA, in areas outside domestic airspace of the United States is governed by Article 12 and Annex 11, of the Convention on International Civil Aviation, which pertains to the establishment of air navigational facilities and services necessary to promoting the safe, orderly, and expeditious flow of civil air traffic. Their purpose is to ensure that civil flying on international air routes is carried out under uniform conditions designed to improve the safety and efficiency of air operations.

The International Standards and Recommended Practices in Annex 11 apply in those parts of the airspace under the jurisdiction of a contracting state, derived from ICAO, wherein air traffic services are provided and also whenever a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting state accepting such responsibility may apply the International Standards and Recommended Practices in a manner consistent with that adopted for airspace under its domestic jurisdiction.

In accordance with Article 3 of the Convention on International Civil Aviation, (61 Stat. 1180), state aircraft are exempt from the provisions of Annex 11 and its Standards and Recommended Practices. As a contracting state, the United States agreed by Article 3(d) that its state aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Since this action involves, in part, the designation of navigable airspace outside the United States, the Administrator is consulting with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

The Proposal

The proposed amendments would, in part, classify all airspace by use of a single alphabet character designation and thereby eliminate any need or reference to airspace assignments, except offshore control areas and SUA designations. Such changes are intended to achieve international commonality of airspace classification and, to that end, are based on several previously mentioned NAR recommendations as well as on the recommendations of the VFOP of the ICAO. The aspects of this proposal dealing with pilot certification and the proposed amendments to Parts 71, 75, 101, 103, 105, 121, 127, 137, and 171 are generally of an editorial nature to integrate the proposed airspace class designators into the respective regulations dealing with airspace assignments and operating rules. Most of the proposed amendments to part 91 are generally editorial to accommodate the proposed airspace reclassification. However, there are new requirements included in this proposal. It is of particular note that the requirements of §§ 91.70(c), 91.85, 91.87, 91.88, and 91.89 would be put upon operators of U.S. civil aircraft when operating over the high seas. Appropriate notes are interspersed with the actual proposed regulatory language to assist the reader in correlating FAA's regarding for the proposed change.

Regulatory Evaluation Summary

Benefit-Cost Analysis

The regulatory evaluation examines the costs and benefits of this NPRM to reclassify U.S. airspace. This proposed rule is intended to simplify airspace designations, achieve international commonality of airspace designations, standardize equipment requirements and associate appropriate pilot certification requirements as well as certain other requirements associated with each proposed airspace designation. These proposed changes are based primarily on recommendations from a NAR Task Group and would ultimately allow for increased safety and efficiency in the U.S. airspace and ATC system.

Costs

The FAA estimates the total incremental cost that would accrue from the implementation of this proposed rule to be $1.6 million (discounted, in 1986 dollars). Virtually all of the cost, which would be incurred by the FAA, would accrue from revisions to aeronautical charts, reeducation of the pilot community, and revision of air traffic controller training courses. Each one of these factors is briefly discussed below:

1. *Revisions to Aeronautical Charts*—Significant cost impact associated with this proposed rule would result from the requirement to change aeronautical charts. These modifications would be incorporated during the regular updating and printing of the charts. Therefore, all costs associated with printing aeronautical charts are assumed to be normal costs of doing business. However, because of dimension and symbol changes which would be needed, the symbology and depictions on the charts would need to be modified. This would require changes to the plates used to print the charts and would affect most of the aeronautical charts printed. The total cost of revisions to all of the charts is estimated by the National Oceanic Service based on the summation of the costs of revising each class of the airspace. The total discounted cost is estimated to be $1 million.

2. *Revision of Air Traffic Training Courses*—Manuals, textbooks, and other training materials used to educate FAA controllers would need to be updated to reflect the airspace reclassification. According to the FAA Aeronautical Center in Oklahoma City, lesson plans, visual aids, handouts, laboratory exercises, and tests would need to be revised.

The cost of these revisions is determined by multiplying the total revision time by the hourly cost of the course manager making the changes. The course managers are level GS–13 (step 5) employees with an average loaded annual salary of $54,000. Assuming 2,080 hours per year, their average loaded hourly salary is $26. The cost of the course changes is estimated to be $31,000 (discounted). An additional cost of $8,000 (discounted) would accrue as the result of a one-week seminar and associated travel. This seminar would be necessary to educate course managers about the airspace reclassification. The total cost that would accrue from this factor is estimated to be $39,000 (discounted).

3. *Reeducation of the Pilot Community*—Pilots who are presently certificated to operate in the U.S. airspace would need to become familiar with the airspace reclassification if this proposal is implemented. This would be accomplished through a variety of publications, videotapes, and pilot meetings.

The FAA is considering the production of a videotape that would be provided as a public service to industry associations such as AOPA, ALPA, and NBAA to inform them of the airspace reclassification. This videotape could be shown at various association meetings to help reeducate the pilot community. The FAA's Office of Public Affairs, estimates that the film would be 15 minutes in length and could be produced at a cost of $17,000 (discounted).

The FAA is also considering the publication of an Advisory Circular (AC documenting the new airspace classification. This AC would be mailed to each registered pilot. It is estimated that one man-week at a level GS–14 (Step 5) would be required to draft the AC and obtain approval in the sponsoring organization, and one GS–14

man-week would be required to obtain FAA approval of the AC. The cost associated with 2 man-weeks at a level GS–14 needed to prepare the AC is estimated to be $2,200 (discounted). This cost was estimated using the average loaded hourly salary of a level GS–14 employee which is $31.

After the AC is approved it would be mailed to approximately 761,000 registered pilots. Assuming that the AC would be 10 pages in length and the cost of reproduction is $0.05 per page, the cost of reproduction would be $335,000 (discounted). Assuming that the shipping and handling charge associated with each copy is $0.25, the cost of shipping and handling is $168,000 (discounted). The cost impact that would result from reeducating the pilot community was estimated by summing the cost of the videotape and the AC, described in the preceding paragraphs. This estimated cost impact is $522,000 (discounted).

4. *Equipage with Two-way Radio*—The NPRM would require that aircraft operators in control zones with operating control towers (Class D airspace) be capable of two-way radio communications. Currently, pilots operating to or from an airport having a federally operated control tower must maintain two-way radio communications with the control tower. However, this is not a requirement at satellite airports or at airports with non-federally operated towers. According to NAR Task Group 1–2.3, this inconsistency causes confusion for pilots. Thus the proposal includes the task group recommendation that two-way radio communications be required at all airports with control towers.

According to the *General Aviation Activity and Avionics Survey* (December 1987), the aircraft not equipped with two-way radios are primarily operated for personal, aerial application, aerial observation, and other work use. These four categories account for 133,366 of the 220,044 active general aviation fleet, or about 61 percent. The greatest number of these aircraft fall into the personal use category. According to the survey, an estimated 90 percent of personal use aircraft are equipped with two-way radios.

It can be assumed that an estimated 10 percent which are not equipped with two-way radios are operating in airspace where this equipment is not required. Also, 70 percent of the aircraft used for aerial application are not equipped with two-way radios. However, this change should not affect aerial application aircraft since the FAA plans to continue to authorize the operations in Class D airspace. Based on these assumptions and on the FAA's intention to continue to authorize such aircraft operations at satellite airports in Class D airspace without two-way radio requirements, this proposed change would have no cost impact on the aviation community.

Benefits

This proposed rule is expected to generate benefits in the form of enhanced safety and operational efficiency to the aviation community. These benefits are briefly described, in qualitative terms, below.

1. *Increased Safety Due to Better Understanding and Simplification*—The FAA believes that the simplified classification in this proposal would reduce airspace complexity and thereby enhance safety. This proposed airspace reclassification mirrors the proposed ICAO airspace designations.

This propopsal would increase safety in the United States since foreign pilots operating aircraft in U.S. airspace would be familiar with the airspace designations and classification system.

Another simplification which would help to increase airspace safety is the change that would correlate the class of controlled airspace currently termed a control zone to the airspace of the surrounding area. Presently, there are several types of designated airspace around an airport which makes it difficult for pilots and controllers to determine how the areas are classified and which requirements apply. After the reclassification the terminology would be more explanatory.

The conversion of statute-mile designations to nautical mile designations is intended to further simplify operations. Since the instruments on-board the aircraft are calibrated in nautical miles and aviation charts have representations in nautical miles, this change would eliminate the need for pilots to convert between nautical and statute miles. This simplification would help pilots and controllers to be better able to understand the airspace designations in part 71.

2. *Reduced Minimum Distance from Cloud Requirement*—This proposed airspace reclassification would designate TCA's as Class B airspace. The VFR minimum distance from clouds requirement in this airspace would also change. Currently this distance is 500 feet below, 1,000 feet above, and 2,000 feet horizontal. In Class B airspace, it is proposed that this minimum distance from clouds be "clear of clouds." This change would afford VFR traffic increased opportunities to fly in Class B airspace in more types of weather than they currently have in a TCA. This would not be a threat to safety since all aircraft operating in Class B airspace are provided with the appropriate separation.

3. *Operation of Ultralight Vehicles*—This NPRM would require one operational change regarding ultralight vehicles. The proposal incorporates NAR Task Group 1–7.2's recommendation to change the regulation pertaining to operations under part 103 to reflect the airspace reclassification terminology and adds reference to 4,000 feet above the surface as the floor of such operations over Class C, D, and E airspace surface areas. This is consistent with the proposed revision to the current 3,000 feet above the surface ceiling of airport traffic areas (proposed Class D) and control zones (proposed Class E surface area).

Conclusion

Despite the fact that benefits are *not* quantifiable in monetary terms, the FAA, nonetheless, concludes that the benefits of this proposal would outweigh its expected costs.

The Regulatory Evaluation that has been placed in the docket contains additional information related to the costs and benefits that are expected to accrue from the implementation of this proposed rule.

International Trade Impact Statement

Since this proposal would not affect airspace outside of the jurisdiction or effective control of the United States, it would not impose any new operating requirement in foreign or international airspace. As such, it would have no affect on the sale of foreign aviation products or services in the United States, nor would it affect the sale of U.S. products or services in foreign countries.

Federalism Statement

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. Thus, in acccordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Regulatory Flexibility Determination

The Regulatory Flexibility Act (RFA) of 1980 was enacted by Congress to ensure that small entities are not

unnecessarily and disproportionately burdened by government regulations. The RFA requires agencies to review rules which may have "a significant economic impact on a substantial number of small entities." The small entities which could be potentially affected by the implementation of this notice are pilot schools (SIC 8299). Training materials used in the courses offered by the pilot schools would have to be modified to reflect the changes of the airspace reclassification. However, it was determined the pilot schools would not incur any cost impact since the documents they use would be updated as a normal course of business. Thus, it has been determined that there would be no cost impact to those pilot schools classified as small entities. Therefore, the FAA certifies that this proposed rule, if promulgated, would not have a significant cost impact on a substantial number of small entities.

The FAA has determined that this proposed rule would not be a "major rule" under E.O. 12291. The FAA has determined that this proposal is a "significant regulation" under Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

List of Subjects

14 CFR Part 1

Air transportation.

14 CFR Part 11

Administrative practice and procedure, Reporting and recordkeeping requirements.

14 CFR Part 65

Air traffic controllers, Aircraft, Airmen, Airports, Reporting and recordkeeping requirements.

14 CFR Part 71

Airspace, Navigation (air).

14 CFR Part 75

Airspace, Navigation (air).

14 CFR Part 91

Agriculture, Air traffic control, Aircraft, Airmen, Airports, Aviation safety, Canada, Cuba, Freight, Mexico, Noise control, Political candidates, Reporting and recordkeeping requirements, Zimbabwa.

14 CFR Part 93

Air traffic control, Airports, Alaska, Navigation (air), Penalties, Reporting and recordkeeping requirements.

14 CFR Part 101

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

14 CFR Part 103

Aircraft, Aviation safety, Recreation and recreation areas.

14 CFR Part 105

Aircraft, Aviation safety, Recreation and recreation areas, Reporting and recordkeeping requirements.

14 CFR Part 121

Air carriers, Aircraft, Airmen, Aviation safety, Charter flights, Drug testing, Reporting and recordkeeping requirements, Safety, Transportation.

14 CFR Part 127

Air carriers, Aircraft, Airmen, Aviation safety, Reporting and recordkeeping requirements.

14 CFR Part 137

Agriculture, Aircraft, Aviation safety.

14 CFR Part 171

Air traffic control, Navigation (air), Reporting and recordkeeping requirements.

The Proposed Amendment

For the reasons set out in the preamble, the FAA is proposing to amend parts 1, 11, 65, 71, 75, 91, 93, 101, 103, 105, 121, 127, 137, and 171 of the Federal Aviation Regulations as follows:

PART 1—DEFINITIONS OF ABBREVIATIONS

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

Authority: 49 U.S.C. 1347, 1348, 1354(a), 1357(d)(2), 1372, 1421 through 1430, 1432, 1442, 1443, 1472, 1510, 1522, 1652(e), 1655(c), 1657(f); 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983).

2. Section 1.1 would be amended by removing the definition "airport traffic area," revising the definition of "controlled airspace," adding the definitions of "uncontrolled airspace," and "Special VFR conditions" in alphabetical order to read as follows:

§ 1.1 General Definitions.

* * * * *

Controlled airspace means airspace designated as Class A, B, C, D, or E airspace in Part 71 of this chapter and within which all aircraft may be subject to ATC.

* * * * *

Special VFR conditions mean meteorological conditions that are less than those required for basic VFR flight in controlled airspace and in which ATC may permit aircraft to operate for the purposes of departing from or arriving at an airport within controlled airspace.

* * * * *

Uncontrolled airspace means that portion of the navigable airspace which is not designated in part 71 as controlled airspace.

PART 11—GENERAL RULEMAKING PROCEDURES

* * * * *

3. The authority for Part 11 continues to read as follows:

Authority: 49 U.S.C. 1341(a), 1343(d), 1348, 1354(a), 1401 through 1405, 1421 through 1431, 1481, 1502; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983).

4. Section 11.61 would be amended by revising (a)(1) and (c). The introductory text of (a) is republished for the convenience of the reader.

§ 11.61 Scope.

(a) This subpart establishes procedures for initiating, processing, issuing, and publishing rules and orders issued under 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)), including—

(1) Designations of controlled airspace under part 71 of this chapter;

* * * * *

(c) For the purposes of this subpart, "Director" means the Executive Director for System Operations, the Associate Administrator for Air Traffic or, the Director, Air Traffic Operations Service or any person to whom the Director as delegated authority in the matter concerned.

* * * * *

PART 65—CERTIFICATION: AIRMEN OTHER THAN FLIGHT CREWMEMBERS

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

Authority: 49 U.S.C. 1354, 1355, 1421, 1422 and 1427; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983).

6. Section 65.37 would be amended by revising (f) introductory text and (f) (2) to read as follows:

§ 65.37 Skill requirements: Operating positions.

* * * * *

(f) Each of the following procedures that is applicable to that operating position and is required by the person performing the examination:

* * * * *

(2) The terrain features, visual checkpoints, and obstructions within the surface area of controlled airspace designated for the airport.

* * * * *

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

7. For a discussion of changes to Part 71, see the Supplementary Information section of this document.

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

8. The authority for Part 75 continues to read as follows:

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

9. Section 75.13 would be revised as follows:

§ 75.13 Area routes above 18,000 feet MSL.

Each area route designated in Subpart D of this part consists of a direct course for navigating aircraft at altitudes between 18,000 feet MSL and flight level 450, inclusive, between the waypoints specified for that route.

PART 91—GENERAL OPERATING AND FLIGHT RULES

10. The authority for Part 91 continues to read as follows:

Authority: 49 U.S.C. 1301(7), 1303, 1344, 1348, 1352 through 1355, 1401, 1421 (as amended by Pub. L. 100–223), 1422 through 1431, 1471, 1472, 1502, 1510, 1522, and 2121 through 2125; Articles 12, 29, 31, and 32(a) of the Convention on International Civil Aviation (61 State 1180); 42 U.S.C. 4321 et seq.; E.O. 11514; Pub. L. 100–202; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983).

11. Section 91.1 would be amended by removing the reference to Special Federal Aviation Regulation No. 45–1 and revising 91.1 (a), (c) introductory text and (c)(1) to read as follows:

§ 91.1 Applicability.

(a) Except as provided in paragraphs (b) and (c) of this section, this part describes rules governing the operation of aircraft (other than moored balloons, kites, unmanned rockets, and unmanned free balloons) within the United States, including the waters within 3 nautical miles of the U.S. coast.

(b) Each person operating an aircraft in the airspace overlying the waters between 3 and 12 nautical miles from the coast of the United States shall comply with Subpart A, 91.1 through 91.43, and Subpart B of this part.

(c) Each person operating a civil aircraft of U.S. registry outside of the United States shall—

(1) When over the high seas, comply with Annex 2 (Rules of the Air) to the Convention on International Civil Aviation and with 91.70(c), 91.85, 91.87, 91.88, and 91.89 of Subpart B;

* * * * *

Note: Operations outside the U.S. within the vicinity of an airport would be required to comply with the appropriate rules for such operations.

12. Section 91.17(c)(4) would be revised to read as follows:

§ 91.17 Towing: gliders.

(a) * * *

(4) Before conducting any towing operation below 4,000 feet above the surface within the lateral limits of the surface area of controlled airspace designated for an airport, or before making each towing flight with such airspace if required by ATC, the pilot-in-command notifies the control tower. If a control tower does not exist or is not in operation, the pilot-in-command must notify the FAA flight service station serving that airspace before conducting any towing operations in that airspace.

* * * * *

13. Section 91.24 would be amended by revising paragraphs (b) and (c) to read as follows:

§ 91.24 ATC transponder and altitude reporting equipment and use

* * * * *

(b) *All airspace.* No person may operate an aircraft in the airspace described in paragraphs (b)(1) through (b)(5) of this section, unless that aircraft is equipped with an operable coded radar beacon transponder having either Mode 3A 4096 code capability, replying to Mode 3A interrogations with the code specified by ATC and intermode and Mode S interrogations in accordance with the applicable provisions specified in TSO C–112, and that aircraft is equipped with automatic pressure altitude reporting equipment having a Mode C capability that automatically replies to Mode C interrogations by transmitting pressure altitude information in 100-foot increments. This requirement applies—

(1) *All aircraft.* In Class A and Class B airspace areas;

(2) *Effective July 1, 1989.* All aircraft in all airspace within 30 miles of an airport for which Class B airspace is designated (primary airport), from the surface upward to 10,000 feet MSL;

(3) *Effective July 1, 1989.* Notwithstanding paragraph (b)(2) of this section, any aircraft which was not originally certificated with an engine-driven electrical system or which has not subsequently been certified with such a system installed, balloon or glider may conduct operations in the airspace within 30 miles of a Class B airspace primary airport provided such operations are conducted—

(i) Outside any Class B or Class A airspace area; and

(ii) Below the altitude of the Class B airspace area ceiling or 10,000 feet MSL, whichever is lower; and

(4) *Effective December 30, 1990.* All aircraft—

(i) In Class C airspace, and

(ii) In all airspace above the ceiling and within the lateral boundaries of a Class C airspace area upward to 10,000 feet MSL; and

(5) *All aircraft except any aircraft which was not originally certificated with an engine-driven electrical system or which has not subsequently been certified with such a system installed, balloon, or glider*—

(i) In all airspace of the 48 contiguous states and the District of Columbia:

(A) *Through June 30, 1989.* Above 12,500 feet MSL and below the floor of a Class A airspace area, excluding the airspace at and below 2,500 feet above the surface.

(B) *Effective July 1, 1989.* At and above 10,000 feet MSL and below the floor of a Class A airspace area, excluding the airspace at and below 2,500 feet above the surface; and

(ii) *Effective December 30, 1990.* In the airspace from the surface to 10,000 feet MSL within a 10-mile radius of any airport listed in Appendix D of this part, excluding the airspace below 1,200 feet above the surface outside of the area in which Class E airspace is designated to the surface for that airport.

(c) *Transponder-on operation.* While in the airspace as specified in paragraph (b) of this section or in all controlled airspace, each person operating an aircraft equipped with an operable ATC transponder maintained in accordance with 91.172 of this part shall operate the transponder, including accordance with 91.172 of this part shall operate the transponder, including Mode C equipment if installed, and shall reply on the appropriate code or as assigned by ATC.

* * * * *

14. Section 91.43 would be amended by revising (c)(1)(i) to read as follows:

§ 91.43 Special rules for foreign civil aircraft.

* * * * *

(c) * * *

(1) * * *

(i) Radio equipment allowing two-way radio communication with ATC when it is operated in controlled airspace; and

* * * * *

15. Section 91.70 would be revised to read as follows:

§ 91.70 Aircraft speed.

(a) Unless otherwise authorized by the Administrator (or ATC in the case of operations in Class A or B airspace), no person may operate an aircraft below 10,000 feet MSL at an indicated airspeed of more than 250 knots (288 mph).

(b) Unless otherwise authorized or required by ATC, no person may operate an aircraft below 4,000 feet above the surface within Class A, B, C, or D airspace surface area at an indicated airspeed of more than—

(1) In the case of reciprocating engine aircraft, 156 knots (180 mph); or

(2) In the case of turbine-powered aircraft, 200 knots (230 mph).

(c) No person may operate an aircraft through a VFR corridor designated in Class B airspace, at an indicated airspeed of more than 200 knots (230 mph).

(d) If the minimum safe aircraft speed for any particular operation is greater than the maximum speed prescribed in this section, the aircraft may be operated at that minimum speed.

16. Section 91.71 would be amended by revising (c), (d), and (e) and by adding (f) to read as follows:

§ 91.71 Acrobatic flight.

* * * * *

(c) Below 4,000 feet above the surface within the lateral limits of the surface area of controlled airspace designated for an airport;

(d) Within 4 nautical miles of the center line of any Federal airway;

(e) Below an altitude of 1,500 feet above the surface; or

(f) When flight visibility is less than 3 statute miles.

* * * * *

17. Section 91.75 would be amended by revising paragraph (a) to read as follows:

§ 91.75 Compliance with ATC clearances and instructions.

(a) When an ATC clearance has been obtained, a pilot-in-command may not deviate from that clearance, except in an emergency, unless that pilot obtains an amended clearance. However, except in Class A airspace, this paragraph does not prohibit that pilot from canceling an IFR flight plan if the operation is being conducted in VFR weather conditions. When a pilot is uncertain of an ATC clearance, that pilot shall immediately request clarification from ATC.

* * * * *

18. Section 91.85 would be revised to read as follows:

§ 91.85 Operating on or in the vicinity of an airport.

(a) *General.* Unless otherwise required by part 93 of this chapter or unless otherwise authorized or required by ATC, each person operating an aircraft on or in the vicinity of an airport shall comply with the requirements of this section and the applicable requirements of this part for operating in specific classes of airspace.

(b) *Flap settings.* Except when necessary for training or certification, the pilot-in-command of a civil turbojet-powered aircraft shall use, as a final landing flap setting, the minimum certificated landing flap setting set forth in the approved performance information in the Airplane Flight Manual for the applicable conditions. However, each pilot-in-command has the final authority and responsibility for the safe operation of his airplane, and may use a different flap setting for that airplane if he determines that it is necessary in the interest of safety.

(c) *Minimum altitudes.* Each pilot of a large or turbine-powered airplane shall:

(1) Unless otherwise required by the applicable distance from cloud criteria, enter the traffic pattern at an altitude of at least 1,500 feet above the elevation of the airport and maintain at least 1,500 feet until further descent is required for a safe landing;

(2) When approaching to land on a runway served by an instrument landing system (ILS), shall, if the airplane is ILS-equipped, fly that airplane at an altitude at or above the glide slope between the outer marker (or point of interception of glide slope, of compliance with the applicable distance from clouds criteria requires interception closer in) and the middle marker; and

(3) When operating an airplane approaching to land on a runway served by a visual approach slope indicator, maintain an altitude at or above the glide slope until a lower altitude is necessary for a safe landing. Paragraphs (c)(2) and (c)(3) of this section do not prohibit normal bracketing maneuvers above or below the glide slope that are conducted for the purpose of remaining on the glide slope.

(d) *Direction of turns.* When approaching to land at an:

(1) *Airport with an operating control tower,* except when conducting a circling approach under part 97 of this chapter, each pilot of an airplane, shall circle the airport to the left.

(2) *Airport without an operating control tower,* each pilot of an airplane, shall make all turns of that airplane to the left unless the airport displays approved light signals or visual markings indicating that turns should be made to the right, in which case the pilot shall make all turns to the right.

(3) *Any airport,* each pilot of a helicopter shall avoid the flow of fixed-wing aircraft.

(e) *Takeoffs.* Each person departing from an airport in:

(1) *Any aircraft,* shall comply with the departure traffic pattern or departure procedure prescribed for that airport.

(2) *A turbine-powered aircraft,* shall, unless otherwise required by the prescribed departure procedure for that airport or the applicable distance from clouds criteria, climb to an altitude of 1,500 feet above the surface as rapidly as practicable.

(f) *Takeoff, landing, taxi clearance.* No person may, at any airport with an operating control tower, operate an aircraft on a runway or taxiway, or takeoff or land an aircraft, unless an appropriate clearance is received from ATC. A clearance to "taxi to" the takeoff runway assigned to the aircraft is not a clearance to cross that assigned takeoff runway, or to taxi on that runway at any point, but is a clearance to cross other runways that intersect the taxi route to that assigned takeoff runway. A clearance to "taxi to" any point other than an assigned takeoff runway is a clearance to cross all runways that intersect the taxi route to that point.

(g) *Noise abatement.* Where a formal runway use program has been established by the FAA, each pilot of a large or turbine-powered airplane assigned a noise abatement runway by ATC, shall use that runway. However, consistent with the final authority of the pilot-in-command concerning the safe operation of the aircraft as prescribed in § 91.3(a), ATC may assign a different runway if requested by the pilot in the interest of safety.

§ 91.87 [Removed]

19. Section 91.87 would be removed.

20. Section 91.88 would be revised to read as follows:

§ 91.88 Operations in Class C or D airspace.

(a) Except as provided in paragraph (b) of this section, each aircraft operation in Class C or D airspace shall be conducted in compliance with the following two-way radio communications requirements:

(1) *Arrival or through flight,* establish two-way radio communications with the ATC facility (including foreign ATC in the case of airspace designated in the U.S. for a non-U.S. airport) providing air traffic services prior to entering that airspace and thereafter maintain those communications while within that airspace.

(2) *Departing flight,* establish and maintain two-way radio communications with ATC prior to departing an airport within Class C and D airspace, except that for aircraft departing a satellite airport, two-way radio communications shall be established as soon as practicable after departing that satellite airport.

(b) An operator may deviate from any provision of this section under the provisions of an ATC authorization issued by the ATC facility having jurisdiction of the airspace concerned. ATC may authorize a deviation on a continuing basis or for an individual flight, as appropriate.

(c) Unless otherwise authorized by ATC, no person may operate an aircraft within a Class C airspace area unless that aircraft is equipped with the applicable equipment specified in § 91.24.

21. Section 91.89 would be revised to read as follows:

§ 91.89 Operations in Class A airspace

Each person operating an aircraft in Class A airspace shall conduct that operation under IFR and in compliance with the following:

(a) *Clearance.* Operations may be conducted only under an ATC clearance received prior to entering the airspace.

(b) *Communications.* Unless otherwise authorized by ATC, each aircraft operating in Class A airspace shall be equipped with a two-way radio capable of communicating with ATC on a frequency assigned by ATC. Each pilot shall maintain two-way radio communications with ATC while operating in Class A airspace.

(c) *Transponder requirement.* Unless otherwise authorized by ATC, no person may operate an aircraft within a Class B airspace area unless that aircraft is equipped with the applicable equipment specified in § 91.24.

(d) *ATC authorizations.* An operator may deviate from any provision of this section under the provisions of an ATC authorization issued by the ATC facility having jurisdiction of the airspace concerned. Requests for deviation from any provision of this section other than paragraph (c) of this section must be submitted in writing, at least 4 days before the proposed operation. ATC may authorize a deviation on a continuing basis or for an individual flight, as appropriate.

22. Section 91.90 would be revised as follows:

§ 91.90 Operations in Class B airspace.

(a) *Operating rules.* No person may operate an aircraft within a Class B airspace area designated in part 71 of this chapter except in compliance with the following rules:

(1) The operator must receive an ATC authorization prior to operation of the aircraft in that area.

(2) Unless otherwise authorized by ATC, each person operating a large turbine engine-powered airplane to or from a primary airport shall operate at or above the designated floors of the Class B airspace area while within the lateral limits of that area.

(3) Any person conducting pilot training operations at an airport within a Class B airspace area shall comply with any procedures established by ATC for such operations in that area.

(b) *Pilot requirements.* (1) No person may take off or land a civil aircraft at an airport within a Class B airspace area or operate a civil aircraft within a Class B airspace area unless:

(i) The pilot-in-command holds at least a private pilot certificate; or

(ii) The aircraft is operated by a student pilot who has met the requirements of § 61.95 of this chapter.

(2) Notwithstanding the provisions of paragraph (b)(1)(ii) of this section, no person may take off or land a civil aircraft at those airports listed in section 4 of Appendix D of this part unless the pilot-in-command holds at least a private pilot certificate.

(c) *Communications and navigation equipment requirements.* Unless otherwise authorized by ATC, no person may operate an aircraft within a Class B airspace area unless that aircraft is equipped with—

(1) An operable VOR or TACAN receiver (except for helicopter operations prior to July 1, 1989); and

(2) An operable two-way radio capable of communications with ATC on appropriate frequencies for that Class B airspace area.

(d) *Transponder requirement.* Unless otherwise authorized by ATC, no person may operate an aircraft in a Class B airspace area unless the aircraft is equipped with the applicable operating transponder and automatic altitude reporting equipment specified in paragraph (a) of § 91.24, except as provided in paragraph (d) of that section.

§ 91.97 [Removed]

23. Section 91.97 would be removed.

24. Section 91.105 would be amended by revising (a) and (b) to read as follows:

§ 91.105 Basic VFR weather minimums.

(a) Except as provided in §§ 91.105(b) and 91.107, no person may operate an aircraft under VFR when the flight visibility is less than, or at a distance from clouds that is less than that prescribed for the corresponding altitude and class of airspace in the following table:

Airspace class	Flight visibility	Distance from clouds
Class A	Not applicable	Not applicable.
Class B	3 statute miles	Clear of clouds.
Class C	3 statute miles	500 feet below, 1,000 feet above, 2,000 feet horizontal.
Class D	3 statute miles	500 feet below, 1,000 feet above, 2,000 feet horizontal.
Class E: below 10,000 feet MSL	3 statute miles	500 feet below, 1,000 feet above, 2,000 feet horizontal.
Class E: at 10,000 feet MSL, and above	5 statute miles	1,000 feet below, 1,000 feet above, 1 mile horizontal.
Class G: Day	1 statute mile	Clear of clouds.

Airspace class	Flight visibility	Distance from clouds
Night	3 statute miles	500 feet below, 1,000 feet above, 2,000 feet horizontal.
Day and night: Except as provided by § 91.105(b).		

(b) *Class G. Airspace.* Nothwithstanding the provisions of paragraph (a) of this section the following operations may be conducted in Class G airspace at and below 1,200 feet above the surface:

(1) *Helicopter.* When the visibility is less than 1 mile during day hours or less than 3 miles during night hours, a helicopter may be operated clear of clouds if operated at a speed that allows the pilot adequate opportunity to see any air traffic or obstruction in time to avoid a collision.

(2) *Airplane.* When the visibility is less than 3 miles but greater than 1 mile during night hours, an airplane may be operated clear of clouds if operated in an airport traffic pattern within one-half mile of the runway.

* * * * *

25. Section 91.107 would be revised to read as follows:

§ 91.107 Special VFR weather minimums.

Except as provided in Appendix D of this part, the following special weather minimums and requirements apply to operations conducted to or from an airport in controlled airspace:

(a) Operations may be conducted only under an ATC clearance—

(1) Within the lateral limits of controlled airspace designated to the surface; and

(2) Except for helicopters, between sunrise and sunset (or in Alaska, when the sun is 6° or more above the horizon) unless:

(i) That person meets the applicable requirements for instrument flight under Part 61 of this chapter; and

(ii) The aircraft is equipped as required in § 91.33(d).

(b) Operations may only be conducted clear of clouds.

(c) Except for helicopters, operations may be conducted only when flight visibility is at least 1 statute mile.

(d) No person may take off or land an aircraft (other than a helicopter)—

(1) Unless ground visibility is at least 1 statute mile; or

(2) If ground visibility is not reported, unless flight visibility during landing and takeoff is at least 1 statute mile.

26. Appendix D of part 91 would be revised to read as follows:

Appendix D—Airports/Locations: Special Operating Restrictions

Section 1. Locations at which the requirements of § 91.24(b)(2) apply. The requirements of § 91.24(b)(2) apply below 10,000 feet above the surface within a 30-nautical-mile radius of each location in the following list:

Atlanta, GA (The William B. Hartsfield Atlanta International Airport)
Boston, MA (General Edward Lawrence Logan International Airport)
Chicago, IL (Chicago-O'Hare International Airport)
Cleveland, OH (Cleveland-Hopkins International Airport)
Dallas, TX (Dallas/Fort Worth Regional Airport)
Denver, CO (Stapleton International Airport)
Detroit, MI (Metropolitan Wayne County Airport)
Honolulu, HI (Honolulu International Airport)
Houston, TX (Houston Intercontinental Airport)
Kansas City, KS (Mid-Continent International Airport)
Las Vegas, NV (McCarran International Airport)
Los Angeles, CA (Los Angeles International Airport)
Miami, FL (Miami International Airport)
Minneapolis, MN (Minneapolis-St. Paul International Airport)
Newark, NJ (Newark International Airport)
New Orleans, LA (New Orleans International Airport-Moisant Field)
New York, NY (John F. Kennedy International Airport)
New York, NY (LaGuardia Airport)
Philadelphia, PA (Philadelphia International Airport)
Pittsburgh, PA (Greater Pittsburgh International Airport)
San Diego, CA (San Diego International Airport)
San Francisco, CA (San Francisco International Airport)
Seattle, WA (Seattle-Tacoma International Airport)
St. Louis, MO (Lambert-St. Louis International Airport)
Washington, DC (Washington National Airport)

Section 2. Airports at which the requirements of § 91.24(b)(5)(ii) apply. The requirements of § 91.24(b)(5)(ii) apply to operations in the vicinity of each of the following airports:

Logan International Airport, Billings, MT.
Hector International Airport, Fargo, ND.

Section 3. Locations at which special VFR is not authorized. The special VFR weather minimums of § 91.107 do not apply for the following airports:

Atlanta, GA (The William B. Hartsfield Atlanta International Airport)
Baltimore, MD (Baltimore/Washington International Airport)
Boston, MA (General Edward Lawrence Logan International Airport)
Buffalo, NY (Greater Buffalo International Airport)
Chicago, IL (Chicago-O'Hare International Airport)
Cleveland, OH (Cleveland-Hopkins International Airport)
Columbus, OH (Port Columbus International Airport)
Covington, KY (Greater Cincinnati International Airport)
Dallas, TX (Dallas/Fort Worth Regional Airport)
Dallas, TX (Love Field)
Denver, CO (Stapleton International Airport)
Detroit, MI (Metropolitan Wayne County Airport)
Honolulu, HI (Honolulu International Airport)
Houston, TX (Houston Interncontinental Airport)
Indianapolis, IN (Indianapolis International Airport)
Los Angeles, CA (Los Angeles International Airport)
Louisville, KY (Standiford Field)
Memphis, TN (Memphis International Airport)
Miami, FL (Miami International Airport)
Minneapolis, MN (Minneapolis-St. Paul International Airport)
Newark, NJ (Newark International Airport)
New York, NY (John F. Kennedy International Airport)
New York, NY (LaGuardia Airport)
New Orleans, LA (New Orleans International Airport, Moisant Field)
Philadelphia, PA (Philadelphia International Airport)
Pittsburgh, PA (Greater Pittsburgh International Airport)
Portland, OR (Portland International Airport)
San Francisco, CA (San Francisco International Airport)
Seattle, WA (Seattle-Tacoma International Airport)
St. Louis, MO (Lambert-St. Louis International Airport)
Tampa, FL (Tampa International Airport)
Washington, DC (Washington National Airport)

Section 4. Locations at which solo student pilot activity is not permitted. Pursuant to § 91.87(b), solo student pilot operations are not permitted at any of the following airports.

Atlanta, GA (The William B. Hartsfield Atlanta International Airport)
Boston, MA (General Edward Lawrence Logan International Airport)
Chicago, IL (Chicago-O'Hare International Airport)
Dallas, TX (Dallas/Fort Worth Regional Airport)

Los Angeles, CA (Los Angeles International Airport)
Miami, FL (Miami International Airport)
Newark, NJ (Newark International Airport)
New York, NY (John F. Kennedy International Airport)
New York, NY (LaGuardia Airport)
San Francisco, CA (San Francisco International Airport)
Washington, DC (Washington National Airport)
Andrews Air Force Base, MD

PART 93—SPECIAL AIR TRAFFIC RULES AND AIRPORT TRAFFIC PATTERNS

27. The authority for part 93 continues to read as follows:

Authority: 49 U.S.C. 1302, 1303, 1348, 1354(a), 1421(a), 1424, the Metropolitan Washington Airports Act of 1986, Pub. L. 99–500; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983).

28. Part 93 would be amended by removing subparts I and Q entirely.

Note: Subpart Q would be removed and the special rules associated with the airports at Abbotsford, BC, and Sault St. Marie, ON, would no longer be needed as these rules would be codified into proposed § 91.88.

29. Section 93.151 would be amended by revising the introductory text to read as follows:

§ 93.151 Applicability.

This subpart prescribes special air traffic rules and communications requirements for persons operating aircraft, under VFR, below 3,000 feet within the lateral limits of the surface area of controlled airspace designated for Ketchikan International Airport, Alaska, excluding that airspace below 600 feet MSL and—

* * * * *

PART 101—MOORED BALLOONS, KITES, UNMANNED ROCKETS AND UNMANNED FREE BALLOONS

30. The authority for part 101 continues to read as follows:

Authority: 49 U.S.C. 1301(7), 1303, 1344, 1348, 1352 through 1355, 1401, 1421 (as amended by Pub. L. 100–223), 1422 through 1431, 1471, 1472, 1502, 1510, 1522, and 2121 through 2125; Articles 12, 29, 31, and 32(a) of the Convention on International Civil Aviation (61 Stat. 1180); 42 U.S.C. 4321 et seq.; E.O. 11514; Pub. L. 100–202; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983).

31. Section 101.33 would be amended by revising paragraph (a) to read as follows:

§ 101.33 Operating limitations.

* * * * *

(a) Unless otherwise authorized by ATC, below 2,000 feet above the surface of a Class D airspace or within the lateral limits of a Class E airspace surface area;

* * * * *

PART 103—ULTRALIGHT VEHICLES

32. The authority for part 103 continues to read as follows:

Authority: 49 U.S.C. 1348, 1354(a), 1421(a), 1422 and 1433; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983).

33. The reference to Special Federal Aviation Regulation No. 45–1 would be removed.

34. Section 103.17 would be revised to read as follows:

§ 103.17 Operations in certain airspace.

No person may operate an ultralight vehicle within Class A, B, C, or D airspace or below 4,000 feet above the surface within the lateral limits of a Class E surface area unless that person has prior authorization from the ATC facility having jurisdiction over that airspace.

35. Section 103.23 would be revised to read as follows:

§ 103.23 Flight visibility and cloud clearance requirements.

No person may operate an ultralight vehicle when the flight visibility or distance from clouds is less than that in the following table, as appropriate:

Airspace class	Flight visibility	Distance from clouds
Class A	Not applicable	Not applicable.
Class B	3 statute miles	Clear of clouds.
Class C	3 statute miles	500 feet below, 1,000 feet above, 2,000 feet horizontal.
Class D	3 statute miles	500 feet below, 1,000 feet above, 2,000 feet horizontal.
Class E: Below 10,000 feet MSL	3 statute miles	500 feet below, 1,000 feet above, 2,000 feet horizontal.
Class E: At 10,000 feet MSL, and above	5 statute miles	1,000 feet below, 1,000 feet above, 1 mile horizontal.
Class G	1 statute mile	Clear of clouds.

PART 105—PARACHUTE JUMPING

36. The authority for Part 105 would continue to read as follows:

Authority: 49 U.S.C. 1348, 1354, and 1421; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983).

37. The reference to Special Federal Aviation Regulation No. 45–1 would be removed.

38. Section 105.19 would be revised to read as follows:

§ 105.19 Jumps in or into Class A, B, C, and D airspace.

(a) No person may make a parachute jump, and no pilot-in-command may allow a parachute jump to be made from that aircraft, in or into Class A, B, C, and D airspace, without, or in violation of, the terms of an ATC authorization issued under this section.

(b) Each request for an authorization under this section must be submitted to the nearest FAA air traffic control facility or FAA flight service station and must include the information prescribed by § 105.25(a).

§ 105.20 [Removed]

39. Section 105.20 would be removed.

§ 105.21 [Removed]

40. Section 105.21 would be removed.

PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG, AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

41. The authority for part 121 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1355, 1356, 1357, 1401, 1421 through 1430, 1472, 1485 and 1502; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983).

42. Section 121.347 would be amended by revising (a) introductory text and (a)(2) to read as follows:

§ 121.347 Radio equipment for operations under VFR over routes navigated by pilotage.

(a) No person may operate an aircraft under VFR over routes that can be navigated by pilotage, unless it is equipped with the radio equipment necessary under normal operating conditions to fulfill the following:

* * * * *

(2) Communicate with appropriate traffic control facilities from any point within the lateral limits of controlled airspace designated to the surface within which flights are intended.

* * * * *

43. Section 121.649 would be amended by revising (c) to read as follows:

§121.649 Takeoff and landing weather minimums: VFR: Domestic air carriers.

* * * * *

(c) The weather minimums in this section do not apply to the VFR operation of fixed-wing aircraft at any of the locations where the special weather minimums of 14 CFR 91.107 are not applicable (See Appendix D of 14 CFR part 91). The basic VFR weather minimums of 14 CFR 91.105 apply at those locations.

PART 127—CERTIFICATION AND OPERATIONS OF SCHEDULED AIR CARRIERS WITH HELICOPTERS

44. The authority for part 127 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421, 1422, 1423, 1424, 1425, and 1430; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983).

45. Section 127.125 would be amended by revising (b). The introductory text of the section is republished for the convenience of the reader to read as follows:

§ 127.125 Radio equipment for operations over routes navigated by pilotage.

No person may operate a helicopter over a route that can be navigated by pilotage, unless the helicopter is equipped with the radio equipment needed to perform the following functions under normal operating conditions.

* * * * *

(b) Communicate with ATC towers from any point within the lateral limits of controlled airspace designated to the surface within which flights are intended.

* * * * *

PART 137—AGRICULTURAL AIRCRAFT OPERATIONS

46. The authority for Part 137 continues to read as follows:

Authority: 49 U.S.C. 1348(c), 1354(a), 1421 and 1427; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983).

47. Section 137.43 would be revised to read as follows:

§ 137.43 Operations in Class D and E airspace.

(a) Except for flights to and from a dispensing area, no person may operate an aircraft within Class D airspace unless authorization for that operation has been obtained from the control tower concerned.

(b) No person may operate an aircraft in weather conditions below VFR minimums within Class D airspace or within the lateral limits of a Class E airspace area designated to the surface unless authorization for that operation has been obtained from the appropriate ATC facility.

(c) Notwithstanding § 91.107(a)(2) of this chapter, an aircraft may be operated under the special VFR weather minimums without meeting the requirements prescribed therein.

PART 171—NON-FEDERAL NAVIGATION FACILITIES

48. The authority for part 171 continues to read as follows:

Authority: 49 U.S.C. 1343, 1346, 1348, 1354(a), 1355, 1401, 1421 (as amended by Pub. L. 100–223), 1422 through 1430, 1472(c), 1502 and 1522; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983).

49. Section 171.49 would be amended by revising paragraph (e) and the concluding text to the section to read as follows:

§ 171.49 Installation requirements.

* * * * *

(e) The facility must have, or be supplemented by (depending on the circumstances) the following ground-air or landline communications services:

(1) At facilities outside of and not immediately adjacent to controlled airspace, ground-air communications from the airport served by the facility must be available. The utilizaton of voice on the ILS frequency should be determined by the facility operator on an individual basis.

(2) At facilities within or immediately adjacent to controlled airspace, there must be the ground-air communications required by paragraph (e)(1) of this section and reliable communications (at least a landline telephone) from the airport to the nearest FAA air traffic control or communications facility. Paragraphs (e)(1) and (e)(2) of this section are not mandatory at airports where an adjacent FAA facility can communicate with aircraft on the ground at the airport and during the entire proposed instrument approach procedure. In addition, at low traffic density airports within or immediately adjacent to controlled airspace, and where extensive delays are not a factor, the requirements of paragraphs (e)(1) and (e)(2) of this section may be reduced to reliable communications (at least a landline telephone) from the airport to the nearest FAA air traffic control or communications facility, if an adjacent FAA facility can communicate with aircraft during the proposed instrument approach procedure down to the airport surface or at least to the minimum approach altitude.

50. Section 171.113 would be amended by revising (f) to read as follows:

§ 171.113 Installation requirements.

* * * * *

(f) The facility must have the following ground-air or landline communications services:

(1) At facilities outside of and not immediately adjacent to controlled airspace, there must be ground-air communications from the airport served by the facility. The utilization of voice

on the SDF should be determined by the facility operator on an individual basis.

(2) At facilities within or immediately adjacent to controlled airspace, there must be ground-air communications required by paragraph (b)(1) of this section and reliable communications (at least a landline telephone) from the airport to the nearest FAA air traffic control or communications facility.

* * * * *

§ 171.271 [Amended]

51. In § 171.271, paragraph (e) would be amended by changing the words "air traffic control areas" and "air traffic control zones or areas" to read "controlled airspace."

Issued in Washington, DC, on September 18, 1989.

David J. Hurley,

Acting Director, Air Traffic Operations Service.

[FR Doc. 89-23692 Filed 10-17-89; 8:45 a.m.]

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Federal Register

Wednesday
October 18, 1989

Part VI

Environmental Protection Agency

Environmental Protection Agency

Cancellation of Pesticides for Nonpayment of 1989 Registration Maintenance Fees; Notice

ENVIRONMENTAL PROTECTION AGENCY

[OPP-64012: FRL-3658-3]

Cancellation of Pesticides for Nonpayment of 1989 Registration Maintenance Fees

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: A new requirement for annual pesticide registration maintenance fees was created by the October, 1988 amendments tothe Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). The fee due last March 1 has gone unpaid for about 20,000 registrations, including some 14,000 under section 3 of FIFRA and about 6,000 more under section 24(c) of FIFRA. Section 4(i)(5)(D) of FIFRA provides that the Administrator may cancel these registrations by order and without a hearing; orders to cancel all but a few of them have been issued within the past few days. For 189 other registrations, however, the Agency is deferring cancellation because it could lead to adverse impacts on users of minor pesticides. This deferral will permit affected users to pursue with the registrants alternatives to cancellation.

DATE: Reports of agreements to support continued registration or transfer of the 189 registrations for which cancellation is being deferred must be received by November 17, 1989.

FOR FURTHER INFORMATION CONTACT: To report agreements to support continued registration of any of the 189 products for which cancellation has been deferred, for instructions on payment of delinquent maintenance fees for these products, or for further information on the maintenance fee program in general, contact by mail: John M. Carley, Office of Pesticide Programs (H7502C), Environmental Protection Agency, 401 M St. SW., Washington, DC 20460. Office location and telephone number: Room 210 (bay), Crystal Mall No. 2, 1921 Jefferson Davis Highway South, Arlington, VA 22202, 703–557–2315.

SUPPLEMENTARY INFORMATION:

I. Introduction

Section 4(i), of FIFRA as amended in October, 1988 requires for the first time that all pesticide registrants pay an annual registration maintenance fee, due by March 1 of each year, to keep their registrations in effect. This requirement applies to all registrations without exception--those granted under section 24(c) to meet special local needs as well as those granted under section 3. There are no statutory exceptions to the requirement, and registrations for which the fee is not paid are subject to cancellation, by order and without a hearing.

Implementation of these requirements has gone smoothly over the past several months. In early February all holders of either section 3 registrations or section 24(c) registrations were notified of the requirement and provided with forms and instructions for responding. They were asked to identify which of their registrations they wished to maintain, and to calculate and remit the appropriate fees. Most responses were received by the statutory deadline of March 1, but late responses have been accepted up to the time of execution of the cancellations. Since mailing the notices EPA has maintained a toll-free inquiry number through which the questions of affected registrants have been answered.

Maintenance fees have been paid for some 22,139 section 3 registrations, or about 63 percent of the registrations on file in January. Fees have been paid for about 3,067 section 24(c) registrations, or about 35 percent of the total on file in January. Cancellations for non-payment of the maintenance fee affect about 13,400 section 3 registrations and about 5,900 section 24(c) registrations.

Because of the unprecedented magnitude of these cancellations, EPA has deferred actual cancellations to permit careful assessment of the impacts of the potential loss of these registrations. We have been particularly concerned about the potential impact on minor uses of pesticides, and have taken special steps to avoid adverse impacts where possible.

II. Housekeeping Cancellations of Inactive Registrations

Our analyses indicate that the great majority of these cancellations are simple housekeeping transactions. For over 10,000 section 3 registrations (77.3 percent of the total for which no fee was paid) no production has been reported since before 1985. This group includes all registrations for some 124 active ingredients with no recent production, which will be dropped from the registration rolls.

Most of the cancelled 24(c) registrations for special local needs are similarly obsolete. We do not have comparable production data for these registrations, but we know that over 92 percent of them were originally issued before 1984—most for a finite period which has long since expired. We also know that a great many have been made obsolete by section 3 registrations for the same uses.

The only anticipated impact of cancelling section 3 registrations which are no longer produced, or 24(c) registrations which have been superseded, is a healthy cleaning out of the Agency's records.

III. Cancellations of Active Registrations

The remaining cancellations, of about 3,000 section 3 registrations and perhaps 1,000 section 24(c) registrations, have been the focus of our further impact analyses. In most of these cases—all but 235 section 3 product registrations—the active ingredients will remain available in other registered products. We anticipate two types of impact for the bulk of these cancellations.

First, some of these disappearing registrations will be survived in the market by substantially identical registrations. These substantially identical products may not, however, be readily available wherever a disappearing product was sold, so there may be local or regional disruptions while distribution patterns are adjusted. We expect these disruptions to be minor and temporary. The cancellation orders generally permit registrants to continue to sell and distribute existing stocks of the cancelled products until the due date for the next annual registration maintenance fee, March 1, 1990. Existing stocks already in the hands of dealers or users, however, can generally be used legally until they are exhausted. (The exceptions to these general rules are cases where more stringent restrictions on sale, distribution, or use of the products have already been imposed.) These general provisions should serve in most cases to cushion the impact of these cancellations while the market adjusts.

Second, in some cases unique uses will disappear, although the active ingredients will remain available for different uses in other products. We cannot estimate how often this may happen. When it does, in addition to possible distribution problems there may be more serious impacts on users of the cancelled products. Once again, existing stocks of the cancelled products already in channels of trade will be usable to mitigate these impacts in the short term. For the longer term the mechanisms of section 3 amendments

and 24(c) registrations will remain available to obtain replacement registrations.

Neither of these types of impact leaves users without the means to replace lost registrations; neither is considered to justify further deferral of cancellations for non–payment of the maintenance fee. Thus all these registrations for which the active ingredient will remain in other products have been cancelled.

IV. Disappearing Active Ingredients

The most significant impacts will arise when an active ingredient with recent production disappears. There are 94 active ingredients for which production has been reported in at least one year since 1984, but for which no maintenance fees have been paid.

Seventeen of these 94 ingredients have been the object of Agency regulatory actions. Impacts of the disappearance of these pesticides have already been extensively addressed, and will not be reconsidered here. We have cancelled the 46 registrations in which these 17 ingredients appear.

After deleting these 17 from the list of 94, some 77 active ingredients remain, all with recently reported production, none subject to other regulatory action, and all likely to disappear as a consequence of these cancellations. These chemicals span a broad range of pesticide uses, as summarized in Table 1.

Table 1—Summary Distribution of Disappearing Active Ingredients by Predominant Use Pattern

Use Pattern	Number of Chemicals	Number of Products
Agricultural Crops & Ornamentals	17	22
Domestic Animals & Pets	7	10
Wide Area or Public Health Use	4	4
Aquatic Use	5	5
Wood Preservatives	8	18
Manufacturing Use Only	5	5
Commercial/Institutional Use	26	111
Miscellaneous Other Uses	5	14
Totals	77	189

The 77 ingredients, grouped in these same general categories of use patterns, are individually listed (with the ID of their registrants) in Table 2 at the end of this notice. The names and addresses of the registrants are listed in order by ID in Table 3.

If the last section 3 registration for an ingredient disappears, 24(c) registrations are unlikely to be able to compensate entirely for the loss. Thus EPA is deferring cancellation of these 189 products to allow adversely affected users to pursue alternatives to cancellation.

If the impact of loss of one of these ingredients is expected to be signifianct, we encourage individual users or user groups to work directly with the registrants to persuade them to continue to support the ingredient, or to identify third parties who would be willing to support the ingredient if the registration were transferred to them. We also encourage users to consult with the Cooperative Extension Service or other local sources to identify alternatives which will remain (or may become) registered.

If the Agency is notified within 30 days of this notice at the address given above either that the registrant will continue to support the registration, or that an agreement has been reached to transfer the registration to another party, we will retain the registration in full active status when the delinquent maintenance fee is paid. It should be emphasized, however, that any such registrations would still be subject to all requirements for reregistration, including reregistration fees (except as they may be reduced through the statutory provisions for small businesses or low volume uses).

In addition to publishing this notice in the **Federal Register**, we are sending it directly to over 1,300 minor user organizations, to the States, to the U.S. Department of Agriculture, and to other parties who have previously expressed concern for minor uses. They should be receiving the notice at approximately the same time it is published. We hope that this extraordinary notification effort, and the deferral of cancellations for the most sensitive registrations, will serve to prevent any avoidable loss of critical minor use pesticides.

Table 2—Active Ingredients with Recent Production Pending Cancellation of all Products for Non-Payment of 1989 Registration Maintenance Fees, Arranged by Predominant Registered Use Pattern

Chemical Name (Chemical Abstracts Number)	Registrant ID
I. Agricultural Crop and Ornamental Uses:	
Alkyl* amine 2,4-D *(100% C12) (CAS 2212-54-6)	000264
Alkyl* amine 2,4-D *(100% C14) (CAS 53404-06-1)	000264
Allium sativum (CAS 8000-78-0)	047319
Butoxycarboxim (CAS 34681-23-7)	035902
Butoxyethanol 4-(2,4-dichlorophenoxy)butyrate (CAS 32357-46-3)	000264
2-Chloroallyl diethyldithiocarbamate (CAS 95-06-7)	002749
Cycloheximide (CAS 66-81-9)	034874
Demeton (CAS 8065-48-3)	000456
	002749
2-(2-Ethoxyethoxy)ethyl 2-benzimidazole carbamate (CAS 83601-82-5)	007946
Fish oil (CAS 8016-13-5)	046078
Lithium 2,4-D (CAS 3766-27-6)	011275
4-Methyl-2-pentanone (CAS 108-10-1)	011474
Norea (CAS 18530-56-8)	001022
	005905
Quinolinol sulfate (CAS 134-31-6)	001327
Sulfur dioxide (CAS 7446-09-5)	036480
1,2,4,5-Tetrachloro-3-nitrobenzene (CAS 117-18-0)	005533
Zinc sulfate, basic (CAS 68813-94-5)	000279
II. Domestic Animal and Pet Treatments:	
Alkyl* bis(2-hydroxyethyl) amine acetate *(65% C18, 30% C16, 5% C14)	005185
Alkyl* trimethyl ammonium chloride *(70% C12, 30% C14) (CAS 112-00-5)	005185
1,3-Butylene glycol (CAS 107-88-0)	005185
Capric diethanolamide (CAS 136-26-5)	010075
Famphur (CAS 52-85-7)	000241
2',4',5',7'-tetraiodofluorescein, disodium salt (CAS 16423-68-0)	002823

Table 2—Active Ingredients with Recent Production Pending Cancellation of all Products for Non-Payment of 1989 Registration Maintenance Fees, Arranged by Predominant Registered Use Pattern—Continued

Chemical Name (Chemical Abstracts Number)	Registrant ID
Undecylenic acid (CAS 112-38-9)	045729
III. Uncultivated Land/Wide Area/Public Health Uses:	
Dialkyl* dimethyl ammonium bentonite *(as in fatty acids of tallow) (CAS 68953-58-2)	001606
Isopropyl carbanilate (CAS 122-42-9)	000748
Sodium 2,3,6-trichlorophenylacetate (CAS 2439-00-1)	010114
2,3,6-Trichlorobenzoic acid and related polychlorobenzoic acids, dimethylamine salt (CAS 3426-62-8)	019713
IV. Aquatic Uses:	
1-(Alkyl* amino)-3-aminopropane monoacetate *(47% C12, 18% C14, 10% C18, 9% C10, 8% C16, 8% C8) (CAS 61791-64-8)	031910
p-(N,N-Dichlorosulfamoyl)benzoic acid (CAS 80-13-7)	000275
1-Ethyl-2-heptadecenyl-1-(2-hydroxyethyl)-2-imidazolinium bromide	007254
(Mono(trichloro)tetra(monopotassium dichloro))-penta-s-triazinetrione (CAS 30622-37-8)	041879
Sodium sulfate (CAS 7757-82-6)	010294
V. Wood Preservatives:	
Linseed oil (CAS 8001-26-1)	001353
Pentachlorophenol, potassium salt (CAS 7978-73-6)	001022
Pentachlorophenyl laurate (CAS 3772-94-9)	023553
Phenylmercuric lactate (CAS 122-64-5)	001022
Tetrachlorophenols (CAS 25167-83-3)	001022 005211
Tetrachlorophenols, sodium salt (CAS 25567-55-9)	001022 006651
Tetrachlorophenols, potassium salt (CAS 53535-27-6)	001022
2,4,5-Trichlorophenol (CAS 95-95-4)	000464 001022
VI. Manufacturing Use Only:	
Alkyl* isoquinolinium bromide *(50% C12, 30% C14, 17% C16, 3% C18) (CAS 53466-68-5)	001839
Derris resins other than rotenone	001439
Dipropetryn (CAS 4147-51-7)	000100
8-Quinolinol citrate (CAS 134-30-5)	009129
Sodium propionate (CAS 137-40-6)	010593
VII. Commercial/Institutional Uses:	
Alkyl* dimethyl benzyl ammonium chloride *(60% C12, 30% C14, 10% C8-16) (CAS 63449-41-2)	000541 003635
Alkyl* dimethyl 3,4-dichlorobenzyl ammonium chloride *(90% C14, 5% C16, 5% C12) (CAS 68989-02-6)	004170 005185 006020 010827 012179 034892 044409
Alkyl* dimethyl ethylbenzyl ammonium chloride *(60% C14, 30% C16, 5% C12, 5% C18) (CAS 63956-79-6)	005747 006621 041260
Alkyl* trimethyl ammonium bromide *(95% C14, 5% C16) (CAS 1119-97-7)	001457
Ammonium citrate (CAS 7632-50-0)	010120
Ammonium EDTA (CAS 7379-26-2)	002296
Ammonium oleate (CAS 544-60-5)	010120
Ammonium oxalate (CAS 1113-38-8)	002296
Cetyl pyridinium bromide (CAS 140-72-7)	010141
4-Chloro-2-biphenylol, potassium salt (CAS 53404-21-0)	000257 001203 002311 005345 006378
6-Chloro-2-phenylphenol, potassium salt (CAS 18128-17-1)	000257 001203 002311 009398 007234
3,5-Dibromo-3'-(trifluoromethyl)salicylanilide (CAS 4776-06-1)	001270
Disodium EDTA (CAS 139-33-3)	004823 010141
Dodecyl bis(hydroxyethyl)dioctyl ammonium phosphate	043670
Dodecyl bis (2-hydroxyethyl) octyl hydrogen ammonium chloride	043670
1-Heptadecenyl-2-(2-hydroxyethyl)-2-imidazolinium chloride	000541
Malic acid (CAS 6915-15-7)	009402
Periplanone B (CAS 61228-92-0)	008730
Polyethylene (CAS 9002-88-4)	002270
Potassium 2-chloro-4-phenylphenate (CAS 18128-16-0)	000257 002860 006378
Propyl alcohol (CAS 71-23-8)	001677 009398
Sodium alkyl* benzene sulfonate *(100% C9) (CAS 26856-61-1)	000541
Sodium oleate (CAS 143-19-1)	003862
Sodium trichloroacetate (CAS 650-51-1)	010120 001439

Table 2—Active Ingredients with Recent Production Pending Cancellation of all Products for Non-Payment of 1989 Registration Maintenance Fees, Arranged by Predominant Registered Use Pattern—Continued

Chemical Name (Chemical Abstracts Number)	Registrant ID
	010114
	010638
	056077
Triethanolamine laurate (CAS 2224-49-9)	006378
Triethanolamine myristate (CAS 41669-40-3)	006378
VIII. Miscellaneous Uses:	
Alkyl* dimethyl benzyl ammonium chloride *(41% C14, 28% C12, 19% C18, 12% C) (CAS 68391-01-5)	010742
Butyl 4-hydroxybenzoate (CAS 94-26-8)	003999
Malachite green (CAS 569-64-2)	003095
	005598
Methyl 4-hydroxybenzoate (CAS 99-76-3)	003999
Zinc fluosilicate (CAS 16871-71-9)	003350

Table 3—Registrants of Active Ingredients Pending Cancellation For Non-Payment of 1989 Registration Maintenance Fee

Registrant ID	Name & Address
000100	Ciba-Geigy Corp., P.O. Box 18300, Greensboro, NC 27419.
000241	American Cyanamid Co., P.O. Box 400, Princeton, NJ 08540.
000257	Grow Group, Inc., 1354 Old Post Rd., Havre de Grace, MD 21078.
000264	Rhone-Poulenc Ag Co., Box 12014, Research Triangle Park, NC 27709.
000275	Abbott Laboratories, 14th and Sheridan Rd., North Chicago, IL 60064.
000279	FMC Corp., 2000 Market St., Philadelphia, PA 19103.
000456	Chemical Formulators Inc., P.O. Box 26, Nitro, WV 25143.
000464	Dow Chemical U. S. A., P.O. Box 1706, Midland, MI 48640.
000541	Puritan/Churchill Chemical Co., P.O. Box 93247 Martech Station, Atlanta, GA 30318.
000748	Federal Regulatory Consultants, Inc., 1555 Wilson Blvd., Arlington, VA 22205.
001022	Chapman Chemical Co., P.O. Box 9158, Memphis, TN 38109.
001203	Delta Foremost Chemical Corp., 3915 Air Park St., Memphis, TN 38130.
001270	Zep Manufacturing Co., 1310 Seaboard Industrial Blvd. NW, Atlanta, GA 30318.
001327	Fuller System, Inc., 226 Washington St., Woburn, MA 01801.
001353	Vaccinal Chemical Company, Inc., 1625 North Highland, Memphis, TN 38108.
001439	Blue Spruce Co., 50 Division Ave., Millington, NJ 07946.
001457	Hexcel Corp., 205 Main St., Lodi, NJ 07644.
001606	Baums Castorine Company, Inc., 200 Matthew St., Rome, NY 13441.
001677	Ecolab, Inc., Ecolab Center, 370 Wabasha St., St. Paul, MN 55102.
001839	Stepan Co., 22 W. Frontage Rd., Northfield, IL 60093.
002270	The Huge Company, Inc., 7625 Page Ave., St. Louis, MO 63133.
002296	National Chemical Labs, Inc., 401 N. 10th St., Philadelphia, PA 19123.
002311	Haag Labs, Inc., 1415 W. 37th St., Chicago, IL 60609.
002749	John M. Wise, P.O. Box 301, Liberty, MO 64068.
002823	John W. Kennedy Consultants, 910 Cherry Lane Suite 113, Laurel, MD 20706.
002860	Windsor Aerosol Division, Approved Products Industries, 8804 Tyson Rd., Wyndmoor, PA 19118.
003862	ABC Compounding Company, Inc., P.O. Drawer 585, Morrow, GA 30260.
004170	Betco Corp., P.O. Box 3127, Toledo, OH 43607.
004823	Maintenance Supply Company, Inc., P.O. Box 498, Huntersville, NC 28078.
005185	Bio-Labs, Inc., 627 E. College Ave., P.O. Box 1489, Decatur, GA 30030.
005211	Reichhold Chemicals, Inc., 2340 Taylor Way, Tacoma, WA 98401.
005345	Perrow Chemical Co., Rural Route ¿3 Box 10463, Hurt, VA 24563.
005533	Eddyco, Inc., 1217 Grandview Ave., Columbus, OH 43212.
005747	Arrow Chemical Products, Inc., 2067 St. Anne St., Detroit, MI 48216.
005905	Helena Chemical Co., 5100 Poplar Ave. Suite 3200, Memphis, TN 38137.
006020	Mom Chemical Co., Inc., 7775 N.W. 66th St., Miami, FL 33166.
006378	Lab Automated Chemicals, P.O. Box 152170, Irving, TX 75015.
006621	National Inter Chem Corp., 2819 W. Lake St., Chicago, IL 60612.
006651	Troy Burford, 2016 Culleywood Rd., Jackson, MS 39211.
007234	Forshaw Chemical Co., 650 State St., Charlotte, NC 28208.
007254	Hackik Distributors, 2300 Island Ave., Philadelphia, PA 19142.
007946	J.J. Mauget Co., 2810 N. Figueroa, Los Angeles, CA 90065.
008730	Hercon Laboratories Corp., P.O. Box 786, York, PA 17405.
009129	The Southland Corp., 2841 Pierce St., Dallas, TX 75233.
009398	Bruce Floor Care Products, 100 S. Wacker Dr., Chicago, IL 60680.
009402	Kimberly-Clark Corp., Legal Department, Neenah, WI 54956.
010075	Dermavet Laboratories, 150 Eileen Way, Syosset, NY 11791.
010114	Arborchem Products Co., P.O. Box 1567, Fort Washington, PA 19034.
010120	Cerfact Lab, P.O. Box 988, Tucker, GA 30084.
010141	Holliston Laboratories, Inc., 440 Totten Pond Rd., Waltham, MA 02154.
010294	M Q Co., 7473 Main St., Hugo, MN 55038.
010593	Standard Brands, Inc., 625 Madison Ave., New York, NY 10022.
010638	Farm & Ranch Supply Co., 7890 E. 11th St., Tulsa, OK 74112.
010827	Chemical Specialties, Inc., P.O. Box 312, San Marcos, TX 78666.

Table 3—Registrants of Active Ingredients Pending Cancellation For Non-Payment of 1989 Registration Maintenance Fee—Continued

Registrant ID	Name & Address
011275	Guth Corp., P.O. Box 302, Naperville, IL 60540.
011474	Sungro Chemicals, Inc., P.O. Box 24632, Los Angeles, CA 90024.
019713	Drexel Chemical Co., P.O. Box 9306, 2487 Pennsylvania St., Memphis, TN 38109.
012179	Diversified Chemical Technologies, Inc., 15477 Woodrow Wilson, Detroit, MI 48238.
023553	Thiokol/Ventrol Division, 150 Andover St., Danvers, MA 01923.
031910	Alco Chemical Corp., 909 Mueller Dr., Chattanooga, TN 37406.
034874	Bishop Chemical, Inc., Rt 12 Box 12020, Tyler, TX 75708.
034892	Russall Products Company, Inc., 2253 Light St., Bronx, NY 10466.
035902	Henley & Company, Inc., Wacker-Chemie Gmbh, 750 Third Ave., New York, NY 10017.
036480	Mid-America Chemical Co., P.O. Box 490, Montrose, AL 36559.
041260	Jackson & Davis Consultants, P.O. Box 118097, Carrollton, TX 75011.
041879	United Worth Hydrochem Corp., P.O. Box 366, Fort Worth, TX 76101.
043670	Kilpatrick & Cody, 2501 M St. NW, Suite 500, Washington, DC 20037
044409	The Majer Company, Inc., P.O. Box 206, Arylant & Mosley Corner, Fairport, NY 14450.
045729	Lester J. Workman, P.O. Box 5547, Sarasota, FL 33579.
046078	Front Builder, Inc., Star Route Box 302, Entiat, WA 98822.
047319	Sevana Co., 5336 E. Easterby Dr., Fresno, CA 93727.
056077	Cedar Chemical Corp., 5100 Poplar Suite 2414, Memphis, TN 38137.

Because so many registrations are involved, it would be impractical to list them all in this notice. Complete lists of registrations cancelled for non-payment of the maintenance fee will, however, be available for reference during normal business hours in the OPP Public Docket and Freedom of InformationSection, Room 248 Crystal Mall 2, 1921 Jefferson Davis Highway South, Arlington VA, and at each EPA Regional Office. Product-specific status inquiries may be made by telephone by calling toll-free 1-800-444-7255.

Dated: October 10, 1989.

Linda J. Fisher,

Assistant Administrator, Office of Pesticide and Toxic Substances.

[FR Doc. 89-24676 Filed 10-17-89; 8:45 am]

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federal register

Wednesday
October 18, 1989

Part VII

The President

Proclamation 6049—National Down Syndrome Month, 1989 and 1990

Digitized

Federal Register
Vol. 54, No. 200
Wednesday, October 18, 1989

Presidential Documents

Title 3—

The President

Proclamation 6049 of October 16, 1989

National Down Syndrome Month, 1989 and 1990

By the President of the United States of America

A Proclamation

During National Down Syndrome Month, we Americans recognize the rights, needs, and potential of individuals with Down Syndrome. We also pay tribute to the scientists, physicians, and teachers whose labors have enhanced our understanding of this congenital disorder.

During the past 20 years, scientists working in molecular genetics and other fields have been carefully studying Down Syndrome. Researchers are looking for the genes, or combination of genes, on chromosome 21 that are related to the development of intelligence and to the physical disorders associated with Down Syndrome. Their efforts are important because, among all the genetic disorders associated with developmental disabilities, Down Syndrome has the most frequent incidence.

Recent progress in the study of Down Syndrome and advances in treatment of its related health problems are enabling more and more of those affected to enjoy greater participation in our life as a Nation. Today, children with Down Syndrome are benefitting from early intervention and mainstreaming. Parents of babies with Down Syndrome are receiving the education and support they need to cope with this condition and to prepare for their child's future. Young people with this developmental disability are now participating in special education classes within mainstream programs in schools, and many have begun to reap the rewards of vocational training and independent living programs.

All of these accomplishments have been made possible through the vision and hard work of concerned researchers, service providers, physicians, teachers, and parent-support groups. Government agencies such as the National Institute of Child Health and Human Development, the Bureau of Maternal and Child Health and Resources Development, and the President's Committee on Mental Retardation continue to work in concert with private organizations such as the National Down Syndrome Congress and the National Down Syndrome Society. The dedicated professionals and volunteers in these agencies and organizations are not only helping to promote public awareness about the nature of Down Syndrome, but also fostering greater respect for the rights, abilities, and needs of those affected by it.

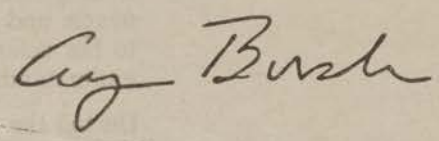
This month, we recognize their efforts and rededicate ourselves to learning more about Down Syndrome and the concerns of the individuals and families it affects. We do so in order that all Americans might be worthy of the praise found in the "Beatitudes for Friends of Exceptional Children":

Blessed are you, when, by all these things
you assure us that the thing that makes us
individuals is not in our peculiar muscles,
nor in our wounded nervous systems, nor in
our difficulties in learning, but in the
God-given self which no infirmity can confine.

The Congress, by Senate Joint Resolution 122, has designated the month of October 1989 and 1990 as "National Down Syndrome Month" and has authorized and requested the President to issue a proclamation in observance of this month.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim the month of October 1989 and 1990 as National Down Syndrome Month. I urge all Americans to unite during October with appropriate programs, ceremonies, and activities directed toward helping affected individuals and their families enjoy to the fullest the blessing of life.

IN WITNESS WHEREOF, I have hereunto set my hand this sixteenth day of October, 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 fourteenth.



[FR Doc. 89-24822
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This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "P L U S" (Public Laws Update Service) on 523-6641. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone 202-275-3030).

H.R. 1486/Pub. L. 101–115

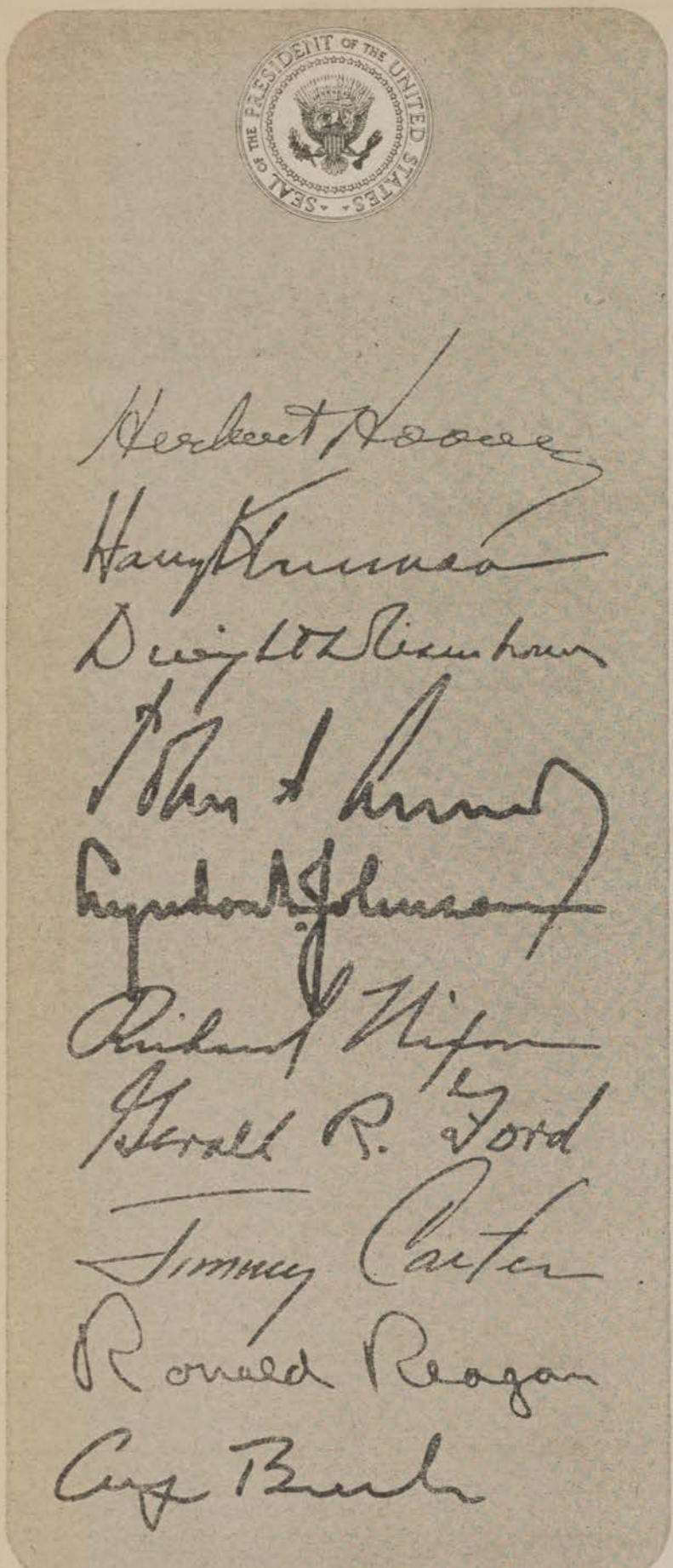
To authorize appropriations for fiscal year 1990 for the Maritime Administration, and for other purposes. (Oct. 13, 1989; 103 Stat. 691; 5 pages) Price: $1.00

S.J. Res. 81/Pub. L. 101–116

To designate the week of October 1 through 7, 1989, as "National Health Care Food Service Week". (Oct. 13, 1989; 103 Stat. 696; 1 page) Price: $1.00

S.J. Res. 122/Pub. L. 101–117

To designate October 1989 and 1990 as "National Down Syndrome Month". (Oct. 13, 1989; 103 Stat. 697; 1 page) Price: $1.00



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