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

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Presidential Documents

Title 3—

The President

Proclamation 6082 of December 10, 1989

Human Rights Day, Bill of Rights Day, and Human Rights Week, 1989

By the President of the United States of America

A Proclamation

"We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness." With these words, our Nation's Founding Fathers declared America's independence from Great Britain more than 200 years ago. In so doing, they asserted the principles that form the fundamental moral vision of the United States. That vision—which recognizes protection of the God-given rights of individuals as the only legitimate end of just government—has inspired the United State's efforts to promote and defend the cause of freedom around the world. We Americans are firmly committed to the advancement of freedom and human rights because we also recognize the inherent relationship between respect for the worth and dignity of each person and the attainment of genuine peace and security.

In 1789, our Nation's Founding Fathers enumerated the rights of individuals in the first ten amendments proposed to our Constitution, known as the Bill of Rights. James Madison once noted that the idea of a Bill of Rights was valuable because "political truths declared in that solemn manner acquire by degrees the character of fundamental maxims of free government." Two hundred years later, the principles enshrined in our Bill of Rights have proved to be not only guiding tenets of American government, but also a model for the world.

The Bill of Rights guarantees freedom of speech and of the press, as well as freedom of religion and association; it ensures that no person shall be deprived of life, liberty, or property without due process of law; and it prohibits unreasonable search and seizure of a person's home, papers, or possessions. The Bill of Rights also guarantees anyone accused of a crime the right to a jury trial and defense counsel; the right to be informed of the charges against him; and protection against cruel or unusal punishment.

Two hundred years after the Bill of Rights was proposed to the States by the Congress, we can behold the remarkable influence and prescience of our Nation's Founding Fathers. In the Universal Declaration of Human Rights adopted on December 10, 1948, the United Nations General Assembly provided a resounding affirmation of the ideals enshrined in our Bill of Rights. This Declaration established a common standard of conduct for all peoples and all governments. Its signatories agreed to respect freedom of thought, freedom of conscience, as well as freedom of religion and belief. They also recognized an individual's right to freedom of movement and assembly, as well as his right to participate in the government of his country and to own property, either alone or in association with others. Noting that respect for the "inalienable rights of all members of the human family is the foundation of freedom, justice, and peace in the world," the Declaration reaffirmed our conviction that human rights violations are the concern of all mankind, and not simply the internal affair of any given nation.

In some areas of the world, we are witnessing historic change and significant improvements in human rights. We applaud the changes and at the same time will remain vigilant to help ensure that progress continues. We will continue to encourage institutionalization of reforms already introduced.

Tragically, however, in contempt for the Universal Declaration of Human Rights and for fundamental standards of morality, the rights of individuals are still being denied in many countries around the world. We will continue to condemn such human rights violations and to call upon the leaders of all countries to honor both the letter and spirit of international human rights agreements.

Safeguarding individual liberty and fundamental human rights is not only the duty of any legitimate government, but also the key to economic prosperity and lasting peace among nations. The United States thus has both a moral obligation and a proper interest in defending human rights and denouncing abuses of them wherever and whenever they occur. Our commitment to this obligation is unflagging. So, this week, as we give thanks for the freedom we enjoy as Americans, let us also renew our determination to value and protect the rights of others.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim December 10, 1989, as Human Rights Day and December 15, 1989, as Bill of Rights Day, and I call upon all Americans to observe the week beginning December 10, 1989, as Human Rights Week.

IN WITNESS WHEREOF, I have hereunto set my hand this tenth day of December, 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.

George Bush

[FR Doc. 89-29225
Filed 12-11-89; 4:46 pm]
Billing code 3195-01-M

Presidential Documents

Proclamation 6083 of December 11, 1989

National Drunk and Drugged Driving Awareness Week, 1989

By the President of the United States of America

A Proclamation

As we prepare to celebrate the holidays and rejoice in the promise of the new year, it is fitting that we pause to remember the perils of drinking and driving. Each year, traffic accidents caused by drunk and drugged driving claim the lives of thousands of Americans. Many others are seriously injured as a result of such incidents. This week, we renew our commitment, as individuals and as a Nation, to keeping our roads and highways safe—not only during the holiday season, but throughout the year.

In past years, programs and activities held in observance of National Drunk and Drugged Driving Awareness Week have proven to be effective in enhancing public awareness of the dangers of driving while under the influence of drugs or alcohol. These programs and activities have been organized by concerned citizens and business leaders, as well as by public officials at all levels of government. Through candlelight vigils, safety campaigns, and voluntary efforts to provide rides from holiday parties, private citizens and business owners have helped focus greater attention on the problem of drunk and drugged driving. Governors, mayors, and other local officials have not only issued proclamations in observance of this week, but have also appointed special task forces to address the issue. The introduction of new drunk driving legislation in various States and the implementation of innovative law enforcement and detection programs have helped improve the safety of roads and highways across the country. These successful voluntary efforts and coordinated governmental activities demonstrate how each and every American can join in the fight against drunk and drugged driving.

Tragically, however, while we have made considerable progress in our efforts to reduce alcohol- and drug-impaired driving, approximately half of all fatal motor vehicle collisions continue to be alcohol-related. Some 80 percent of these accidents involve a legally intoxicated driver or pedestrian. These statistics mean that, during 1988, alcohol played a role in more than 23,000 traffic deaths. The toll in terms of personal suffering and loss can never be measured.

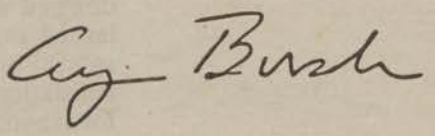
The observance of National Drunk and Drugged Driving Awareness Week reminds us of how much more we have to do in order to eliminate this senseless carnage of our Nation's roads and highways. Each of us must recognize the grave dangers posed by drinking and driving, and we must refuse to tolerate it. We must also recognize that drugs—including prescribed medications and those purchased over-the-counter—can seriously impair one's judgment and driving ability, whether taken alone or in combination with alcohol.

This week provides an opportunity for all Americans to become involved in the campaign against drunk and drugged driving. We can do so by supporting the work of local law enforcement officials and by demonstrating a sense of personal responsibility ourselves. We can encourage friends and neighbors who consume alcohol to do so in moderation; and when a friend or neighbor drinks, we can refuse to let him or her drive. We can also wear a safety belt whenever we are behind the wheel, and we can insist that passengers do the same.

In order to encourage more citizens to become involved in efforts to improve the safety of our Nation's roads and highways, the Congress, by House Joint Resolution 429, has designated the week of December 10 through December 16, 1989, as "National Drunk and Drugged Driving Awareness Week" and has authorized and requested the President to issue a proclamation in observance of this week.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim the week of December 10 through December 16, 1989, as National Drunk and Drugged Driving Awareness Week. I ask each American to help improve the safety of our highways by refusing to tolerate drunk and drugged driving. I also call upon the Governors of the several States, Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, and American Samoa, the chief officials of local governments, and the people of the United States to observe this week with appropriate programs, ceremonies, and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this eleventh day of December, 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. 89-29226
Filed 12-11-89; 4:47 pm]
Billing code 3195-01-M

Editorial note: For the President's remarks of Dec. 11 on signing Proclamation 6083, see the *Weekly Compilation of Presidential Documents* (vol. 25, no. 50).

Rules and Regulations

Federal Register
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Wednesday, December 13, 1989

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 89-206]

Mediterranean Fruit Fly; Addition to the Quarantined Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: We are amending the Mediterranean fruit fly regulations by adding additional portions of Los Angeles County, California, to the list of quarantined areas. This action is necessary on an emergency basis to prevent the spread of the Mediterranean fruit fly into noninfested areas of the United States.

DATES: Interim rule effective December 7, 1989. Consideration will be given only to comments received on or before February 12, 1990.

ADDRESSES: To help ensure that your comments are considered, send an original and three copies to Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, Room 866, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket Number 89-206. Comments received may be inspected at USDA, Room 1141, South Building, 14th and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Milton C. Holmes, Senior Operations Officer, Domestic and Emergency Operations, PPQ, APHIS, USDA, Room 642, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-8247.

SUPPLEMENTARY INFORMATION:

Background

The Mediterranean fruit fly, *Ceratitis capitata* (Wiedemann), is one of the world's most destructive pests of numerous fruits and vegetables, especially citrus fruits. the Mediterranean fruit fly (Medfly) can cause serious economic losses. Heavy infestations can cause complete loss of crops, and losses of 25 to 50 percent are not uncommon. The short life cycle of this pest permits the rapid development of serious outbreaks.

A document effective August 23, 1989, and published in the **Federal Register** on August 29, 1989 (54 FR 35629-35635, Docket Number 89-146), established the Mediterranean fruit fly regulations and quarantined an area in Los Angeles County, California (7 CFR 301.78 *et seq.*; referred to below as the regulations). In an interim rule effective September 14, 1989, and published in the **Federal Register** on September 20, 1989 (54 FR 38643-38645, Docket Number 89-169), we amended the regulations by adding a portion of Santa Clara County, California, to the list of quarantined areas. Also, in an interim rule effective October 11, 1989, and published in the **Federal Register** on October 17, 1989 (54 FR 42478-42480, Docket Number 89-182), we amended the regulations by adding an additional portion of Los Angeles County and a portion of San Bernardino County in California to the list of quarantined areas. In addition, we further amended the regulations by adding an additional portion of Los Angeles County in California to the list of quarantined areas in an interim rule effective November 17, 1989, and published in the **Federal Register** on November 24, 1989 (54 FR 48571-48572, Docket Number 89-202). These areas remain infested with Mediterranean fruit fly.

The regulations impose restrictions on the interstate movement of regulated articles from quarantined areas in order to prevent the spread of the Mediterranean fruit fly to noninfested areas.

Recent trapping surveys by inspectors of California State and county agencies and by inspectors of the Animal and Plant Health Inspection Service, a unit within the U.S. Department of Agriculture, reveal that additional infestations of Medfly have been discovered in Los Angeles County, California.

Specifically, inspectors collected 22 Mediterranean fruit flies outside the perimeter of a previously quarantined area near Valinda, Baldwin Park, and Whittier, California, during the period of November 3, 1989, to November 27, 1989. In addition, one mated female was found near North Hollywood, California, on November 20, 1989.

The regulations in § 301.78-3 provide that the Administrator of the Animal and Plant Health Inspection Service shall list as a quarantined area each State, or each portion of a State, in which the Mediterranean fruit fly has been found by an inspector, in which the Administrator has reason to believe the Mediterranean fruit fly is present, or that the Administrator considers necessary to regulate because of its inseparability for quarantine enforcement purposes from localities in which the Mediterranean fruit fly has been found.

In accordance with these criteria, we are revising the quarantined area in Los Angeles County, California, by expanding the previously quarantined area near Valinda, Baldwin Park, and Whittier, and by designating an additional quarantined area near North Hollywood as follows:

Los Angeles County

That portion of the county in the Whittier, Baldwin Park, Valinda, and San Gabriel Valley areas bounded by a line drawn as follows: Beginning at the intersection of Rosemead Boulevard and Interstate Highway 210; then easterly along this highway to its intersection with Grand Avenue; then southerly along this avenue to its intersection with Valley Boulevard; then southwesterly along this boulevard to its intersection with Brea Canyon Road; then southerly along this road to its intersection with State Highway 60; then westerly along this highway to its intersection with Nogales Street; then southerly along this street to its intersection with Colima Road; then westerly along this road to its intersection with Fullerton Road; then southerly along this road to its intersection with the La Habra Heights City Limits; then northwesterly along the city limits to its intersection with Hacienda Boulevard; then southerly along this boulevard to its intersection with the Los Angeles/Orange County line; then westerly and southerly along this county line to its intersection with La Habra Boulevard; then westerly along this boulevard to its intersection with Leffingwell Road; then southwesterly along this road to its

intersection with Imperial Highway; then westerly along this highway to its intersection with Interstate Highway 5; then northwesterly along this highway to its intersection with Soto Street; then northeasterly along this street to its intersection with Huntington Drive; then northeasterly along this drive to its intersection with Monterey Road; then northerly along this road to its intersection with Avenue 60; then northwesterly along this avenue to its intersection with Figueroa Street; then northeasterly along this street to its intersection with York Boulevard; then westerly along this boulevard to its intersection with Eagle Rock Boulevard; then northeasterly along this boulevard to its intersection with Colorado Boulevard; then westerly along this boulevard to its intersection with State Highway 2; then northerly along this highway to its intersection with Chevy Chase Drive; then northeasterly along this drive to its intersection with Highland Drive; then easterly along this drive to its intersection with Woodbury Road; then easterly along this road to its intersection with Lake Avenue; then northerly along this avenue to its intersection with New York Drive; then easterly and southeasterly along this drive to its intersection with Sierra Madre Villa Avenue; then southerly along this avenue to its intersection with Rosemead Boulevard; then southeasterly along this boulevard to the point of beginning.

That portion of the county in the North Hollywood area bounded by a line drawn as follows: Beginning at the intersection of Laurel Canyon Boulevard and Sherman Way; then easterly along this way to its intersection with Vineland Avenue; then southerly along this avenue to its intersection with Vanowen Street; then easterly along this street to its intersection with Empire Avenue; then easterly along this avenue to its intersection with Buena Vista Street; then southerly and southeasterly along this street to its intersection with Olive Avenue; then southwesterly along this avenue to its intersection with State Highway 134; then westerly along this highway to its intersection with U.S. Highway 101; then westerly along this highway to its intersection with Laurel Canyon Boulevard; then northerly along this boulevard to the point of beginning.

There does not appear to be any reason to designate other additional quarantined areas in California other than the areas specified above. California has adopted and is enforcing regulations imposing restrictions on the intrastate movement of the regulated articles that are equivalent to those imposed on the interstate movement of regulated articles under this subpart.

Emergency Action.

James W. Glosser, Administrator of the Animal and Plant Health Inspection Service, has determined that an emergency situation exists, which warrants publication of this interim rule without prior opportunity for public comment. Because the Mediterranean fruit fly could be spread to noninfested areas of the United States, it is necessary to act immediately to prevent its spread.

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

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this rule will have an effect on the economy of less than $100 million; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

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

This regulation affects the interstate movement of regulated articles from portions of Los Angeles County, California. In addition to the entities previously mentioned in the Valinda, Whittier, and Baldwin Park area, within the newly regulated areas approximately 424 entities will be affected by this rule. All would be considered small entities. They include 202 fruit/produce markets, 145 mobile vendors, 61 nurseries, 3 farmers markets, 8 florists, and 5 flea markets. These entities emprise less than 1 percent of the total of similar enterprises operating in the Sate of California. Most of the sales for these entities are local intrastate and would not be affected by this regulation. Further, the conditions in the Mediterranean fruit fly regulations and treatments in the Plant Protection and Quarantine Treatment Manual, incorporated by reference in the regulations, allow interstate movement of most articles without significant added costs.

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

Paperwork Reduction Act

The regulations in this subpart contain no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.).*

Executive Order 12372

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

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases, Plant pests, Plants (Agriculture), Quarantine, Transportation, Mediterranean fruit fly, Incorporation by reference.

Accordingly, 7 CFR part 301 is amended as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

1. The authority citation for 7 CFR Part 301 continues as follows:

Authority: 7 U.S.C. 150bb, 150dd, 150ee, 150ff; 161, 162, and 164–167; 7 CFR 2.17, 2.51, and 371.2(c).

3. In § 301.78–3 paragraph (c), the designation of the quarantined area is amended by revising the paragraph under "Los Angeles County" that begins "That portion of the county in the Valinda, Baldwin Park, and Whittier areas * * *" to read as follows:

§ 301.78–3 Quarantined areas.

* * * * *

(c) * * *

California

Los Angeles County

* * * * *

That portion of the county in the Whittier, Baldwin Park, Valinda, and San Gabriel Valley areas bounded by a line drawn as follows: Beginning at the intersection of Rosemead Boulevard and Interstate Highway 210; then easterly along this highway to its intersection with Grand Avenue; then southerly along this avenue to its intersection with Valley Boulevard; then southwesterly along this boulevard to its intersection with Brea Canyon Road; then southerly along this road to its intersection with State Highway

60; then westerly along this highway to its intersection with Nogales Street; then southerly along this street to its intersection with Colima Road; then westerly along this road to its intersection with Fullerton Road; then southerly along this road to its intersection with the La Habra Heights City Limits; then northwesterly along the city limits to its intersection with Hacienda Boulevard; then southerly along this boulevard to its intersection with the Los Angeles/Orange County line; then westerly and southerly along this county line to its intersection with La Habra Boulevard; then westerly along this boulevard to its intersection with Leffingwell Road; then southwesterly along this road to its intersection with Imperial Highway; then westerly along this highway to its intersection with Interstate Highway 5; then northwesterly along this highway to its intersection with Soto Street; then northeasterly along this street to its intersection with Huntington Drive; then northeasterly along this drive to its intersection with Monterey Road; then northerly along this road to its intersection with Avenue 60; then northwesterly along this avenue to its intersection with Figueroa Street; then northeasterly along this street to its intersection with York Boulevard; then westerly along this boulevard to its intersection with Eagle Rock Boulevard; then northeasterly along this boulevard to its intersection with Colorado Boulevard; then westerly along this boulevard to its intersection with State Highway 2; then northerly along this highway to its intersection with Chevy Chase Drive; then northeasterly along this drive to its intersection with Highland Drive; then easterly along this drive to its intersection with Woodbury Road; then easterly along this road to its intersection with Lake Avenue; then northerly along this avenue to its intersection with New York Drive; then easterly and southeasterly along this drive to its intersection with Sierra Madre Villa Avenue; then southerly along this avenue to its intersection with Rosemead Boulevard; then southeasterly along this boulevard to the point of beginning.

4. In § 301.78–3(c), the designation of the quarantined area is amended by adding the following area in Los Angeles County immediately before the description for San Bernardino County:

* * * * *

That portion of the county in the North Hollywood area bounded by a line drawn as follows: Beginning at the intersection of Laurel Canyon Boulevard and Sherman Way; then easterly along this way to its intersection with Vineland Avenue; then southerly along this avenue to its intersection with Vanowen Street; then easterly along this street to its intersection with Empire Avenue; then easterly along this avenue to its intersection with Buena Vista Street; then southerly and southeasterly along this street to its intersection with Olive Avenue; then southwesterly along this avenue to its intersection with State Highway 134; then westerly along this highway to its intersection wth U.S. Highway 101; then westerly along this highway to its intersection with Laurel Canyon Boulevard; then northerly along this boulevard to the point of beginning.

* * * * *

Done in Washington, DC, this 7th day of December 1989.

Lonnie J. King,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 89–28994 Filed 12–12–89; 8:45 am]

BILLING CODE 3410–34–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 89–ANE–02; Amendment 39–6352].

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

AGENCY: Federal Aviation Administration, (FAA), DOT.

ACTION: Final rule; correction.

SUMMARY: This document corrects the effective date and the incorporation by reference approval date for the above-captioned Airworthiness Directive published in the **Federal Register** on Tuesday, December 5, 1989 (54 FR 50232). A delay in the processing of the document resulted in publication less than 30 days before the effective date. In all other respects, the original document is correct.

DATE: Effective January 15, 1990.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 15, 1990.

SUPPLEMENTARY INFORMATION: A final rule Airworthiness Directive (AD) applicable to certain Pratt & Whitney JT8D turbofan engines was published in the **Federal Register** on Tuesday, December 5, 1989, with an effective date of January 1, 1990 (54 FR 50232). This document changes the effective date and the incorporation by reference approval date of that AD to January 15, 1990. Since none of the regulatory information has been changed, the final rule is not being republished.

Issued in Washington, DC, on December 6, 1989.

Donald P. Byrne,

Acting Assistant Chief Counsel for Regulations and Enforcement.

[FR Doc. 89–29048 Filed 12–12–89; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 39

[Docket No. 89–NM–161–AD; Amdt. 39–6422]

Airworthiness Directives; Boeing of Canada, Ltd., de Havilland Division, Model DHC–7 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all de Havilland Model DHC–7 series airplanes, which requires a visual inspection for loose rivets, low frequency ultrasonic inspection for disbonding of unriveted stringers on fuselage skins, and repair, if necessary. This amendment is prompted by a recent report of disbonding found during routine inspection in a waffle doubler/belly skin. This condition, if not corrected, could lead to reduced structural capability of the fuselage and subsequent decompression of the airplane.

DATE: Effective January 14, 1990.

ADDRESSES: The applicable service information may be obtained from Boeing of Canada, Ltd., de Havilland Division, Garratt Boulevard, Downsview, Ontario M3K 1Y5, Canada. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or at the FAA, New England Region, 181 South Franklin Avenue, Valley Stream, New York.

FOR FURTHER INFORMATION CONTACT: Mr. Anthony Socias, Airframe Branch, ANE–172; telephone (516) 791–6220. Mailing address: FAA, New England Region, New York Aircraft Certification Office, 181 South Franklin Avenue, Valley Stream, New York 11581.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include a new airworthiness directive, applicable to all de Havilland Model DHC–7 series airplanes, which requires a visual inspection for loose rivets, low frequency ultrasonic inspection for disbonding of unriveted stringers on fuselage skins, and repair, if necessary, was published in the **Federal Register** on September 1, 1989 (54 FR 36320).

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

Both commenters supported the rule, but one commenter requested that the

proposed compliance time for paragraph A. be increased from 30 days to 60 days so there will be minimal disruption of its fleet. Upon further investigation, the FAA has learned that 60 percent of the U.S. fleet has already been inspected, and no disbonding has been found. In light of this information, the FAA concurs with the commenter's request and has determined that the compliance time may be increased to 60 days without adversely affecting safety. Paragraph A. of the final rule has been revised accordingly.

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

This is considered to be interim action. The manufacturer is currently attempting to determine the extent and nature of the addressed damage, and is developing an appropriate repetitive inspection schedule and/or modification that will preclude the need for repetitive inspections. Once these are developed, the FAA may consider further rulemaking to revise this AD to require additional necessary actions.

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

It is estimated that 42 airplanes of U.S. registry will be affected by this AD, that it will take approximately 36 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $60,480.

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

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

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

Boeing of Canada, Ltd., De Havilland Division: Applies to all Model DHC-7 series airplanes, certificated in any category. Compliance is required as indicated, unless previously accomplished.

To prevent reduced structural capability of the fuselage and subsequent decompression of the airplane, accomplish the following:

A. Within 60 days after the effective date of this AD, perform the following inspections and repair, in accordance with de Havilland Service Bulletin 7-53-33, Revision A, dated June 9, 1989:

1. Perform a low frequency ultrasonic inspection for disbonding of the fuselage belly skin doublers, between fuselage stations X248.00 and X535.25 below stringer 20 left and right, in accordance with Inspection Part A of the service bulletin.

2. Visually inspect for looseness or working of the rivets in the vertical skin joints, at fuselage stations X535.25 and X576.25 below stringer 20, left and right.

3. Visually inspect for looseness or working of the rivets in the fuselage skin joints at station X630.00 around the complete periphery of the fuselage, above and below the passenger and emergency exit doors.

4. Visually inspect for looseness or working of the rivets in the skin longitudinal joint between fuselage stations X424.00 to X484.00 along stringer 20, left and right. Pay particular attention to the lower line of rivets.

5. Repair all loose rivets prior to further flight, in a manner approved by the Manager, New York Aircraft Certification Office, ANE-170, FAA, New England Region.

6. Repair all disbonding prior to further flight, in accordance with the service bulletin.

B. Within 90 days after the effective date of this AD:

1. Perform a low frequency ultrasonic inspection for disbonding of the fuselage left and right sidewall skin doublers, between fuselage stations X248.00 and X596.75, between stringer 20 and 10, in accordance with de Havilland Service Bulletin 7-53-33, Revision A, dated June 9, 1989.

2. Repair any disbonding prior to further flight, in accordance with the service bulletin.

C. Within 150 days after the effective date of this AD:

1. Perform a low frequency ultrasonic inspection for disbonding of the fuselage roof skin doublers between fuselage stations X248.00 and X630.00, between stringer 10, left and right, in accordance with de Havilland Service Bulletin 7-53-33, Revision A., dated June 9, 1989.

2. Repair any disbonding prior to further flight, in accordance with the service bulletin.

D. Within 3 days after accomplishing each of the inspections required by paragraphs A., B., and C., above, report all findings, positive or negative, to the Director, Airworthiness Branch, Transport Canada, Ottawa, Canada; to the manufacturer, Boeing of Canada, Ltd., de Havilland Division, in accordance with de Havilland Service Bulletin 7-53-33, Revision A, dated June 9, 1989; and to the FAA, Manager, New York Aircraft Certification Office, ANE-170, New England Region.

E. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, New York Aircraft Certification Office, ANE-170, FAA, New England Region.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who will either concur or comment and then send it to the Manager, New York Aircraft Certification Office, ANE-170.

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

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Boeing of Canada, Ltd., de Havilland Division, Garratt Boulevard, Downsview, Ontario M3K 1Y5, Canada. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or New York Aircraft Certification Office, FAA, New England Region, 181 South Franklin Avenue, Valley Stream, New York.

This amendment becomes effective January 14, 1990.

Issued in Seattle, Washington, on November 30, 1989.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89-29045 Filed 12-12-89; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 88-NM-177-AD; Amendment 39-6424]

Airworthiness Directives; Boeing Model 737-300, 757, and 767 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to Boeing Model 737-300, 757, and 767 series airplanes, which requires the replacement of all 1½-turn pull rings with 2-turn pull rings in each oxygen module assembly, and the inspection and replacement, if necessary, of certain oxygen generators which may be defective. This amendment is prompted by reports of failures of the oxygen generators during a functional test at an airline, failures of the pull rings during one cabin decompression, and tests by the manufacturer. This condition, if not corrected, could result in the oxygen generator not activating, resulting in no supplemental oxygen supply to passengers and flight attendants when necessary.

DATE: Effective January 17, 1990.

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

FOR FURTHER INFORMATION CONTACT: Mr. David M. Herron, Systems and Equipment Branch, ANM-130S; telephone (206) 431-1949. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive, applicable to certain Boeing Model 737-300, 757, and 767 series airplanes, which requires the replacement of all 1½-turn pull rings with 2-turn pull rings in each oxygen module assembly, and the inspection and replacement, if necessary, of certain oxygen generators which may be defective, was published in the Federal Register on December 9, 1988 (53 FR 49677).

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

The Air Transport Association (ATA) of America, commenting on behalf of its members, stated that operators were unable to accomplish the modification as specified in the proposal because some lanyard loops were too small to accommodate the 2-turn ring. ATA requested that the rule be revised to include new modification instructions when available. The FAA concurs. Since issuance of the NPRM, the FAA has reviewed and approved Boeing Alert Service Bulletin 737-35A1029, Revision 3, dated June 29, 1989; Boeing Alert Service Bulletin 757-35A0006, Revision 2, dated June 29, 1989; and Boeing Alert Service Bulletin 767-35A0014, Revision 1, dated April 13, 1989. These revisions provide additional instructions to cover a situation when the lanyard loop is too small to accommodate the 2-turn ring. The final rule has been revised to allow modification in accordance with these later service bulletin revisions.

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

There are approximately 842 Model 737-300, 757, and 767 series airplanes of the affected design in the worldwide fleet. It is estimated that 475 airplanes of U.S. registry will be affected by this AD, that it will take approximately 17.2 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $326,800.

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

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

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

Boeing: Applies to Model 737-300, 757 and 767 series airplanes, listed in Boeing Alert Service Bulletins 737-35A1029, Revision 2, dated September 29, 1988; 757-35A0006, Revision 1, dated March 10, 1988; and 767-35A0014, dated December 17, 1987; certificated in any category. Compliance required within the next 3,000 hours time-in-service after the effective date of this AD, unless previously accomplished.

To prevent failure of the oxygen generator to activate when required, accomplish the following:

A. Inspect Puritan chemical generators, P/N 11700-13, for serial numbers 06339 through 06559, and replace those units in accordance with Puritan-Bennett Service Bulletin 117003-13-35-1, dated December 17, 1987.

B. Inspect, and if installed, replace 1½-turn oxygen generator lanyard pull rings with 2-turn pull rings as follows:

1. For Model 767 series airplanes, in accordance with Boeing Alert Service Bulletin 767-35A0014, dated December 17, 1987, or Revision 1, dated April 13, 1989;

2. For Model 757 series airplanes, in accordance with Boeing Alert Service Bulletin 757-35A0006, Revision 1, dated March 10, 1988, or Revision 2, dated June 29, 1989;

3. For Model 737-300 series airplanes, in accordance with Boeing Alert Service Bulletin 737-35A1029, Revision 2, dated September 29, 1988, or Revision 3, dated June 29, 1989.

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

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who will either concur or

comment, and then send it to the Manager, Seattle Aircraft Certification Office.

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

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124 and the Puritan-Bennett Aero Systems Co., Attn: Customer Services Dept., 10800 Pflumm Road, Lenexa, Kansas 66215. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective January 17, 1990.

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

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89-29044 Filed 12-12-89; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 89-NM-175-AD; Amendment 39-6421]

Airworthiness Directives; Boeing of Canada, Ltd., de Havilland Division, Model DHC-7 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to all de Havilland Model DHC-7 series airplanes, which currently requires repetitive inspections of the main landing gear (MLG) unimproved upper lock strut assemblies for cracks, and replacement, if necessary. Such cracking, if not corrected, could result in collapse of the MLG and subsequent airplane damage. This amendment expands the inspection requirement to include assemblies that may have been improperly reworked, and requires eventual replacement of the upper lock struts with improved parts.

DATE: Effective January 14, 1990.

ADDRESSES: The applicable service information may be obtained from Boeing of Canada, Ltd., de Havilland Division, Garratt Boulevard, Downsview, Ontario M3K 1Y5, Canada. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or at the FAA, New England Region, 181 South Franklin Avenue, Valley Stream, New York.

FOR FURTHER INFORMATION CONTACT: Mr. John Maher, Airframe Branch, ANE-172; telephone (516) 791-6220. Mailing address: FAA, New England Region, 181 South Franklin Avenue, Valley Stream, New York 11581.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations by superseding AD 80-17-13, Amendment 39-3885 (45 FR 54732; August 18, 1980), applicable to all de Havilland Model DHC-7 series airplanes, with a new airworthiness directive to require an inspection of the main landing gear upper lock struts to determine the configuration installed and eventual replacement of the upper lock struts with improved parts, was published in the **Federal Register** on September 25, 1989 (54 FR 39188).

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

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

It is estimated that 46 airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 manhour per airplane to accomplish the required initial inspection and 4 manhours to replace unimproved parts, and that the average labor cost will be $40 per manhour. The required parts will be supplied at no cost to the operator. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $9,200.

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

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by superseding AD 80-17-13, Amendment 39-3885 (45 FR 54732; August 18, 1980), with the following new airworthiness directive:

Boeing of Canada, Ltd. de Havilland Division: Applies to de Havilland Model DHC-7 series airplanes, certificated in any category. Compliance is required as indicated, unless previously accomplished.

To prevent possible collapse of a main landing gear (MLG) due to failure of the MLG upper lock strut, accomplish the following:

A. Within 50 hours time-in-service after the effective date of this AD, inspect the left and right main MLG upper lock struts to determine the part number of the struts. Accomplish this inspection in accordance with de Havilland Alert Service Bulletin A7-32-93, dated January 30, 1989.

B. If the part number is identified to be either 15707-5 or 15707-7 (subassembly P/N 15709-7 or 15709-9), the airplane may be returned to service after reprotecting the part with alodine solution #1200 and grey epoxy paint.

C. If the part number is 15707-3, or is both 15707-3 and 15707-5, or cannot be positively identified, prior to further flight, perform a one-time NDT inspection for cracks, in accordance with de Havilland Service Bulletin No. 7-32-21, Revision B, dated October 1, 1982; and thereafter perform a visual inspection for cracks prior to the first flight of each day. Upper lock struts with cracks must be replaced prior to further flight.

D. Replacement with a P/N 17509-7 or 17509-9 upper lock strut subassembly (machined P/N 15707-5 or 15707-7), constitutes terminating action for the repetitive inspections required by paragraph C., above.

E. Within 90 days after the effective date of this AD, replace upper lock struts having part

number 15707–3, or both 15707–3 and 15707–5, or those that cannot be positively identified, with a P/N 15709–7 or 15709–9 upper lock strut subassembly (machined P/N 15707–5 or 15707–7). This constitutes terminating action for the repetitive inspection requirements of this AD.

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

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

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

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Boeing Canada, Ltd., de Havilland Division, Garratt Boulevard, Downsview, Ontario M3K 1Y5, Canada. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or FAA, New England Region, New York Aircraft Certification Office, 181 South Franklin Avenue, Valley Stream, New York.

This amendment supersedes Amendment 39–3885, AD 80–17–13.

This amendment becomes effective January 14, 1990.

Issued in Seattle, Washington, on November 30, 1989.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate Aircraft Certification Service.

[FR Doc. 89–29042 Filed 12–12–89; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 89–NM–214–AD; Amdt. 39–6423]

Airworthiness Directives; Boeing Model 767 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all Boeing Model 767 series airplanes, which requires an inspection of the leading edge slat shutoff valve, the leading edge slat long-term shutoff control, the inboard and outboard leading edge slat drive mechanical rigging and the trailing edge flap bypass valve motor; and replacement of failed parts found during this inspection. This amendment is prompted by a report of an uncommanded slat extension during cruise, and several instances of an inoperative trailing edge flap bypass valve motor. This condition, if not corrected, could result in uncommanded extension of the wing leading edge slat or the wing trailing edge flap, causing damage to the airplane and/or degrading the handling characteristics of the airplane.

DATE: Effective December 27, 1989.

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

FOR FURTHER INFORMATION CONTACT: Don Kurle, ANM–130S; telephone (206) 431–1945. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: An inflight uncommanded deployment of the outboard leading edge slats occurred with the flap lever in the up position. The incident occurred while the airplane was in cruise configuration at a speed 5 knots below the flap placard speed. This incident occurred as a result of misrigging of the mechanical input to the Power Drive Unit (PDU), and an electrical signal holding the hydraulic shutoff valve (SOV) to the PDU open, after slat retraction. This condition, if not corrected, could lead to structural damage of the slats and/or result in an asymmetric aerodynamic wing loading and degraded flying qualities.

During ground operation, several incidents of trailing edge flap bypass valve motor failure were discovered. The motor failure has been traced to hydraulic fluid contamination. This condition, if not corrected, would compromise the trailing edge flap drive shut-down protection against flap asymmetry and uncommanded extension, and creates the potential for structural damage and/or degraded flying qualities.

The FAA has reviewed and approved Boeing Alert Service Bulletin 767–27A0094, dated September 28, 1989, which describes procedures for functional checks of the leading edge slat shutoff valve, the leading edge slat long-term shutoff control, trailing edge flap drive bypass valve, and inboard and outboard slat drive mechanical rigging.

Since this condition is likely to exist or develop on other airplanes of the same type design, this AD requires repetitive inspections and replacement, if necessary, of the affected components in accordance with the service bulletin previously described.

This repetitive inspection is considered to be an interim action. The FAA may consider further rulemaking action after procedures for rework of the affected components have been developed.

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

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

Boeing: Applies to all Model 767 series airplanes, certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent uncommanded/asymmetric deployment of leading edge slats and trailing edge flaps, accomplish the following:

A. Within the next 25 days after the effective date of this AD, and at intervals not to exceed 400 hours time-in-service thereafter, conduct a functional check of the leading edge slat shutoff valve and the trailing edge flap drive bypass valve in accordance with Boeing Alert Service Bulletin 767–27A0094, dated September 28, 1989.

B. Within the next 25 days after the effective date of this AD, conduct a functional check of the leading edge slat long term shutoff control and the leading edge inboard and outboard slat drive mechanical rigging in accordance with Boeing Alert Service Bulletin 767–27A0094, dated September 28, 1989.

C. Replace, prior to further flight, all failed parts detected in functional checks performed in accordance with paragraphs A. and B., above.

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

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

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

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

This amendment becomes effective December 27, 1989.

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

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89–29043 Filed 12–12–89; 8:45 am]

BILLING CODE 4910–13–M

NATIONAL LABOR RELATIONS BOARD

29 CFR Part 102

Rescheduling Unfair Labor Practice Hearings

AGENCY: National Labor Relations Board.

ACTION: Final rule.

SUMMARY: The National Labor Relations Board issues a final rule permanently implementing its recent experimental modification of the procedures for rescheduling unfair labor practice hearings. The procedures are permanently modified so that the authority to reschedule hearings is transferred, subject to certain exceptions, from the Regional Directors to the administrative law judges.

EFFECTIVE DATE: December 1, 1989.

FOR FURTHER INFORMATION CONTACT: John C. Truesdale, Executive Secretary, 1717 Pennsylvania Avenue NW., Room 701, Washington, DC 20570, Telephone: (202) 254–9430.

SUPPLEMENTAL INFORMATION: On August 1, 1988, the National Labor Relations Board implemented a one-year experiment in all of its Regional Offices whereby the authority to reschedule unfair labor practice hearings was transferred, subject to certain exceptions, from the Regional Directors to the administrative law judges. (See 53 FR 26348). The experiment was subsequently extended until November 30, 1989 (see 54 FR 31392), and a comment period was provided until October 2, 1989 (see 54 FR 37039).

The Board received comments by the Acting Associate General Counsel, from the Deputy Chief Administrative Law Judge, and from several private law firms or attorneys that practice before the Agency. Each are summarized below.

Acting Associate General Counsel

The comments by Acting Associate General Counsel William G. Stack indicated that, although most of the Regional Offices opposed the experimental rescheduling system, the data which they had accumulated during the experimental period showed that the experiment had actually had "minimal impact" on their case processing. Thus, given the Board's expressed concern about the public's perception of the fairness of the old system, the Acting Associate General Counsel concluded that "permanently instituting the new system may create a more favorable image of the Agency with little, if any, adverse affect on casehandling."

Deputy Chief Administrative Law Judge

The comments from Deputy Chief Administrative Law Judge David S. Davidson indicated that while the experimental procedure had "somewhat increased" the workload of the administrative law judges, "most of the [rescheduling] requests require little time for disposition, and continuation of the procedure would present no problem" for the judges. However, noting that a postponement was virtually automatic in cases where there was no objection to the request, the Deputy Chief Administrative Law Judge suggested that an additional exception might be allowed to permit the Regional Directors to reschedule the hearing in such cases. Such an exception, the Deputy Chief Administrative Law Judge concluded, "would significantly reduce the number of requests coming to [the administrative law judges] and should have little impact on public perception of fairness."

Private Practitioners

Four comments were received from private law firms or attorneys that practice before the Agency. Two of these comments, from Edward Miller, former NLRB chairman and now Senior Counsel of Pope, Ballard, Shepard & Fowle, Ltd., and from Dean Denlinger of Denlinger, Rosenthal & Greenberg, were submitted at the outset of the experiment. Former Chairman Miller indicated that, although he had some concerns about how some of the exceptions would be applied, he was supportive of the experiment. Denlinger indicated that he generally supported the changes in the experimental procedure and recommended that the changes be made permanent, but urged that the exceptions in the experimental rule be eliminated and that all decisions concerning the rescheduling of hearings be made by the administrative law judges. The two other comments were submitted by G. Roger King of Bricker & Eckler, and Fred F. Holroyd of Holroyd, Yost & Merical. G. Roger King indicated that Bricker & Eckler was supportive of the experimental procedure, and recommended that the experiment "be made permanent." Fred F. Holroyd indicated that while he was also

supportive of changing the old procedure, he could see "no difference in the actual practice from the old system to the new," and recommended that the authority to reschedule hearings be transferred to the administrative law judges without exception.

Having considered all of the above comments, the Board has decided to make the experimental rescheduling procedure permanent. Virtually all of the comments indicate that the experimental procedure will help at least in some degree to change the apparent public perception of unfairness in this area. Accordingly, we conclude that the experimental procedure will serve its stated purpose and should be permanently implemented in a final rule.

We will, however, make one change in the experimental procedure. In agreement with Deputy Chief Administrative Law Judge Davidson, we see no reason not to permit the Regional Directors to continue to reschedule hearings in those instances where there is no objection. Accordingly, we will incorporate this change into the final rule.

Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the Board certifies that the rule will not have a significant impact on a substantial number of small businesses.

List of Subjects in 29 CFR Part 102

Administrative practice and procedure, labor management relations.

Accordingly, 29 CFR part 102 is amended as follows:

PART 102—RULES AND REGULATIONS, SERIES 8

1. The authority citation for 29 CFR part 102 continues to read as follows:

Authority: Section 6, National Labor Relations Act, as amended (29 U.S.C. 151, 156). Section 102.117 also issued under section 552(a)(4)(A) of the Freedom of Information Act, as amended (5 U.S.C. 552(a)(4)(A)). Sections 102.143 through 102.155 also issued under section 504(c)(1) of the Equal Access to Justice Act, as amended (5 U.S.C. 504(c)(1).

2. Sections 102.16 and 102.24(a) are revised to read as follows:

§ 102.16 Hearing; change of date or place.

(a) Upon his own motion or upon proper cause shown by any other party, the Regional Director issuing the complaint may extend the date of such hearing or may change the place at which it is to be held, except that the authority of the Regional Director to extend the date of a hearing shall be limited to the following circumstances:

(1) Where all parties agree or no party objects to extension of the date of hearing;

(2) Where a new charge or charges have been filed which, if meritorious, might be appropriate for consolidation with the pending complaint;

(3) Where negotiations which could lead to settlement of all or a portion of the complaint are in progress;

(4) Where issues related to the complaint are pending before the General Counsel's Division of Advice or Office of Appeals; or

(5) Where more than 21 days remain before the scheduled date of hearing.

(b) Where in circumstances other than those set forth in subsection (a) of this section, motions to reschedule the hearing should be filed with the Division of Judges in accordance with section 102.24(a). When a motion to reschedule has been granted, the Regional Director issuing the complaint shall retain the authority to order a new date for hearing and retain the responsibility to make the necessary arrangements for conducting such hearing, including its location and the transcription of the proceedings.

§ 102.24 Motions; where to file; contents; service on other parties; promptness in filing and response; summary judgment procedures

(a) All motions under § 102.22 and 102.29 made prior to the hearing shall be filed in writing with the Regional Director issuing the complaint. All motions for summary judgment or dismissal made prior to the hearing shall be filed in writing with the Board pursuant to the provisions of § 102.50. All other motions made prior to the hearing, including motions to reschedule the hearing under circumstances other than those set forth in § 102.16(a), shall be filed in writing with the chief administrative law judge in Washington, DC, with the deputy chief judge in San Francisco, California, with the associate chief judge in New York, New York, or with the associate chief judge in Atlanta, Georgia, as the case may be. All motions made at the hearing shall be made in writing to the administrative law judge or stated orally on the record. All motions filed subsequent to the hearing, but before the transfer of the case to the Board pursuant to § 102.45, shall be filed with the administrative law judge, care of the chief administrative law judge in Washington, DC, the deputy chief judge in San Francisco, California, the associate chief judge in New York, New York, or the associate chief judge in Atlanta, Georgia, as the case may be. Motions shall briefly state the order or relief applied for and the grounds therefor. All motions filed with a Regional Director or an administrative law judge as set forth above shall be filed therewith by transmitting three copies thereof together with an affidavit of service on the parties. All motions filed with the Board, including motions for summary judgment or dismissal, shall be filed with the Executive Secretary of the Board in Washington, DC, by transmitting eight copies thereof together with an affidavit of service on the parties. Unless otherwise provided in these rules, motions and responses thereto shall be filed promptly and within such time as not to delay the proceeding.

* * * * *

Dated, Washington, DC, December 1, 1989.

By direction of the Board.

John C. Truesdale,

Executive Secretary, National Labor Relations Board.

[FR Doc. 89-29172 Filed 12-12-89; 8:45 am]

BILLING CODE 7545-01-M

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 4

RIN 1024-AB83

Vehicles and Traffic Safety

AGENCY: National Park Service, Interior.

ACTION: Final rule.

SUMMARY: The National Park Service (NPS) is establishing a mandatory seatbelt regulation that would apply to occupants of motor vehicles operated within units of the National Park System. A proposed rulemaking was issued December 21, 1988, in response to a specific provision in the Department of the Interior's 1989 Fiscal Year Appropriations Act that required the NPS to propose such a rulemaking. Under current NPS regulations, the use of seatbelts by the public is required only in park areas that lie within States that have a mandatory seatbelt law in effect; the applicable state law is adopted and enforced by the NPS. The NPS now requires the use of seatbelts by all front seat occupants of motor vehicles that are operated in park areas.

EFFECTIVE DATE: January 12, 1990.

FOR FURTHER INFORMATION CONTACT: James Loach, National Park Service, Division of Ranger Activities, P.O. Box 37127, Washington, DC 20013-7127, Telephone: 202-343-4206.

SUPPLEMENTARY INFORMATION:

Background

The NPS administers 354 park areas throughout the country under the broad statutory mandates to promote and regulate their use; to conserve the scenery, the natural and cultural objects and the wildlife therein; and to provide for their enjoyment in such manner as will leave them unimpaired for the enjoyment of future generations. Facilities developed by the NPS in park areas, including roads, are limited to those necessary to carry out these legislative mandates and to support the purposes of the individual park areas as defined by Congress.

Although visitors to the National Park System use a variety of access methods, the vast majority continue to rely on motor vehicles and roadways to reach park areas and to circulate within them. Consequently, the NPS has major responsibilities and program involvement in the areas of road construction and maintenance, traffic safety and traffic law enforcement.

The NPS currently administers almost 8,000 miles of roads within the National Park System that are open to the public. There is great variety in the nature and extent of park roads, ranging from very short lengths of unpaved secondary roadways, to well-developed road systems complete with spur roads, parking areas and overlooks, to parkways running for hundreds of miles through several States, to parkways used primarily as commuter routes in the Washington, DC area. In addition, many park areas contain State and/or county highways and roads over which the NPS may exercise varying degrees of jurisdiction.

The following statistics provide an indication of the scope of NPS traffic safety and traffic law enforcement activities. In 1987 there were 287,200,000 visits recorded to the National Park System and approximately 2,600,000,000 vehicle-miles traveled on roads administered by the NPS. There were 9,358 traffic accidents reported that resulted in 70 fatalities, 1,979 personal injuries and $6.3 million in property damage. A total of 140,610 citations were issued by NPS law enforcement officers (Park Rangers and U.S. Park Police) for traffic violations.

NPS general regulations pertaining to vehicles and traffic safety are codified in Title 36 of the Code of Federal Regulations (36 CFR) part 4. These regulations apply to all units of the National Park System. They were totally revised in 1987. The rulemaking that proposed those revisions in 1986 included a section that would have established a mandatory seatbelt regulation that applied throughout the National Park System (see 51 FR 21840). However, the NPS did not incorporate that provision in the final rule for reasons that were discussed in detail in that document (see 52 FR 10670).

The Department of the Interior and the NPS strongly support the use of appropriate restraint systems by vehicle occupants and view the potential reduction in personal injuries and fatalities that might result from the promulgation of this regulation as highly desirable. The benefits of wearing seatbelts have been documented extensively.

The NPS seatbelt regulation being adopted by this rulemaking requires that a motor vehicle operator and all front seat passengers be restrained by a properly fastened seatbelt while the motor vehicle is in motion. The burden of compliance is placed on the operator. The final regulation prohibits operating a motor vehicle in motion unless all front seat passengers and the operator are restrained by a properly fastened safety belt. Children, as defined by applicable State law, are required to be restrained in accordance with State law. A person who is convicted of violating this or any other NPS regulation promulgated under the authority of the National Park Service Organic Act of August 16, 1916 (16 USC 3) would be subject to a maximum penalty as defined by law, currently a $500 fine, or six months imprisonment, or both.

According to figures provided by staff of the National Highway Traffic Safety Administration, all States have child restraint laws in effect; 31 States and the District of Columbia have mandatory seatbelt laws in effect. The seatbelt regulation in this rulemaking is intended to apply in all park areas. In States that do have a mandatory seatbelt law in effect which can be enforced in NPS areas, the NPS will continue to enforce the applicable State seatbelt law, regardless of whether the provisions of State law are identical to or different from the provisions of this regulation. If some provision of State law prevents the enforcement of that State's mandatory seatbelt requirement, this regulation will be enforced. To do otherwise would create the potential for unnecessary conflicts with State law.

The regulation would not apply to a motor vehicle operator or passenger who is occupying a seat that was not originally equipped with a seatbelt by the vehicle manufacturer, nor would it apply to a person with a medical condition that prevents restraint by a seatbelt.

The NPS intends that this regulation be enforced primarily through signing, text in brochures and incidental public contact, not through checkpoints or other enforcement contacts that are not initiated as a result of another violation.

The NPS estimates that this regulation could potentially affect approximately 100 park areas, or portions thereof, that are located within the following States: Alabama, Alaska, Arizona, Arkansas, Kentucky, Maine, Massachusetts, Mississippi, Nebraska, New Hampshire, North Dakota, Oregon, Rhode Island, South Carolina, South Dakota, West Virginia and Wyoming. Park areas located in the Virgin Islands would also be affected.

The existing strong support from the Department and the NPS for the wearing of seatbelts does not alter the basic position of the Department and the NPS that the respective States are the appropriate authorities to regulate traffic on roadways within units of the National Park System. The NPS believes that, to the extent practicable, motor vehicle operators should be subject to the same traffic laws and regulations while traveling on roadways in park areas as they are in the surrounding State(s); NPS traffic regulations should be limited to those that address problems or situations that are unique to park areas or that reflect a need to apply a consistent Servicewide regulatory approach. However, in this instance, the compelling evidence that many deaths and injuries are prevented by the use of safety belts and seats, the support for such a rule by the public in the comments received in response to the proposed rule, and in keeping with the NPS philosophy of protecting the public while they are utilizing the land and facilities administered by the NPS justify the adoption of this rule, even though it will not be consistent with rules and regulations of some States.

Summary of Comments

The policy of the National Park Service is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. The NPS specifically solicited comments from representatives of State and Federal highway safety agencies, traffic law enforcement agencies and other interested health and safety organizations.

The NPS received 175 responses to the proposed regulation.

One hundred and thirty seven were in favor and 38 were opposed. Forty nine comments were received from States affected by the proposed rule. Of the 49 comments received from those States not having a current mandatory seatbelt

use law, 36 were in favor of the proposed regulation.

The majority of the 38 responses received in opposition to the proposed regulation argued that the individual States are best suited to promulgate their respective traffic regulations, public confusion might result in States that did not have mandatory seatbelt use laws, or that it could result in the unnecessary expenditure of funds for signing and enforcement.

Of the 137 comments received in support of the regulation, a number of comments were received from State and Federal highway safety agencies as well as other interested health and safety organizations. These were all in favor of the regulation. They supported mandatory seatbelt use as an effective method to reduce deaths and injuries resulting from motor vehicle accidents. In general the view taken was that while the adoption of a required seatbelt regulation might be in conflict with some States' traffic regulations, it would be consistent with the National Park Service's commitment to ensuring the public's safety while using NPS administered facilities.

Based upon the comments received, revisions were made in the proposed regulation to remove the direction of travel as a criteria for seatbelt use, the United States Department of Transportation standards for seatbelts were adopted, and the regulation's enforcement was further defined.

Drafting Information

The primary authors of this rulemaking are Andy Ringgold and James Loach of the NPS Division of Ranger Activities, Washington, DC. The staff of the National Highway Traffic Safety Administration was consulted informally during the development of this rulemaking and provided valuable advice and assistance.

Paperwork Reduction Act

This rulemaking does not contain information collection requirements that require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

Compliance with Other Laws

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 (February 19, 1981), 46 FR 13193, and certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). These findings are based on the fact that the overall economic effects of this rulemaking are negligible; it would impose no additional costs on any group or class of individuals. The NPS will incur costs associated with the installation of signs and the development of other public information programs in all affected park areas. These administrative costs could be significant in some park areas, depending on the road inventory and the number of access points.

The NPS has determined that this rulemaking will not have a significant effect on the quality of the human environment, health and safety because it is not expected to:

(a) Increase public use to the extent of compromising the nature and character of the area or causing physical damage to it;

(b) Introduce noncompatible uses which might compromise the nature and characteristics of the area, or cause physical damage to it;

(c) Conflict with adjacent ownerships or land uses; or

(d) Cause a nuisance to adjacent owners or occupants.

Based on this determination, this rulemaking is categorically excluded from the procedural requirements of the National Environmental Policy Act (NEPA) by Departmental regulations in 516 DM 6 (49 FR 21438). As such, neither an Environmental Assessment nor an Environmental Impact Statement has been prepared.

List of Subjects in 36 CFR Part 4

National parks, Traffic regulations.

In consideration of the foregoing, 36 CFR Chapter I, Part 4 is amended as follows:

PART 4—VEHICLES AND TRAFFIC SAFETY

1. The authority citation for part 4 continues to read as follows:

Authority: 16 U.S.C. 1, 3, 9a, 462(k).

2. By adding a new § 4.15 to read as follows:

§ 4.15 Safety belts.

(a) This section applies in any park area, or portion thereof, that is located within a State in which there is no State law in effect that requires the mandatory use of a vehicle safety belt by the vehicle operator and any front seat passenger. It also applies in any park area, or portion thereof, that is located within a State in which any provision of State law renders the enforcement of that State's mandatory safety belt law unenforceable in the park area.

(b) This section does not apply to an operator or a passenger of a motor vehicle occupying a seat that was not originally equipped by the manufacturer with a safety belt nor does it apply to an operator or passenger with a medical condition that prevents restraint by a safety belt or other occupant restraining device.

(c) The operator of a motor vehicle is prohibited from operating a motor vehicle in motion unless the operator and each front seat passenger is restrained by a properly fastened safety belt that conforms to applicable United States Department of Transportation standards, except that children, as defined by State law, shall be restrained as provided by State law.

(d) An authorized person may not cause an operator of a motor vehicle to stop the motor vehicle for the sole purpose of determining whether a violation of paragraph (c) of this section is being committed.

Dated: July 28, 1989.

Susan R. Lamson,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 89-29087 Filed 12-12-89; 8:45 am]

BILLING CODE 4310-70-M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 3

RIN 2900-AE01

Duty Periods

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: The Department of Veterans Affairs (VA) is amending its regulation for classification of training performed by members of the Senior Reserve Officers' Training Corps. This change is required because of a change of law regarding the definition of training for this group. The intended result of this change is to clarify the duty status of this group during specific types of training.

EFFECTIVE DATE: October 1, 1988, in accordance with the provisions of Public Law 100-456.

FOR FURTHER INFORMATION CONTACT: Bill Leonard, Legal Consultant, Regulations Staff, Compensation and Pension Service (211B), Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 233-3005.

SUPPLEMENTARY INFORMATION: On pages 24212-13 of the **Federal Register** of June 6, 1989, the VA published a proposed regulatory amendment on classification of training performed by

members of the Senior Reserve Officers' Training Corps. A correction to this proposal was published on pages 26397–98 of the Federal Register of June 23, 1989.

Interested persons were invited to submit comments, suggestions, or objections by July 6, 1989. One comment was received which was from the Director of a VA regional office. The comment expressed concern that the rule as proposed would not allow payment of disability compensation benefits based on injuries incurred by members of the Senior Reserve Officers' Training Corps during travel to and from periods of inactive duty for training. This was not the intent of the legislation on which the amendment was based.

Upon further review of the current regulation and the proposed amendment, additional modifications are deemed necessary for the purpose of clarity and conformity to the controlling statute. In addition to the original proposed amendments, we are also amending 38 CFR 3.6(e) to conform with 38 U.S.C. 106(d) by deleting "Any member of a Reserve Component" and inserting in its place "Any individual." As this section defines service performed if injured during travel to or from both active and inactive duty for training, we are deleting the redundant provision contained in 38 CFR 3.6(c)(5).

The Secretary hereby certifies that this regulatory amendment 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 this amendment would not directly affect any small entities. Only VA beneficiaries could be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), this amendment is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

In accordance with Executive Order 12291, Federal Regulation, the Secretary has determined that this regulatory amendment is nonmajor for the following reasons.

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

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

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

The Catalog of Federal Domestic Assistance program numbers are 64.100, 64.101, 64.104, 64.105, 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: November 21, 1989.

Edward J. Derwinski,

Secretary.

38 CFR Part 3, Adjudication, is amended as set forth below:

PART 3—[AMENDED]

1. In § 3.6, paragraphs (c)(4) and (c)(5) are revised, and authority citation is added following paragraph (c)(5), paragraph (d)(3) is redesignated as paragraph (d)(4), paragraph (d)(2) is revised, new paragraph (d)(3) and a new authority citation for the paragraph are added, and the introduction text of paragraph (e) is revised so the revised and added text reads as follows:

§ 3.6 Duty periods.

* * * * *

(c) * * *

(4) Duty performed by a member of a Senior Reserve Officers' Training Corps program when ordered to such duty for the purpose of training or a practice cruise under Chapter 103 of Title 10, United States Code.

(i) The requirements of this paragraph are effective—

(A) On or after October 1, 1982, with respect to deaths and disabilities resulting from diseases or injuries incurred or aggravated after September 30, 1982, and

(B) October 1, 1983, with respect to deaths and disabilities resulting from diseases or injuries incurred or aggravated before October 1, 1982.

(ii) Effective on or after October 1, 1988, such duty must be prerequisite to the member being commissioned and must be for a period of at least four continuous weeks.

(Authority: 38 U.S.C. 101(22)(D) as amended by Pub. L. 100–456)

(5) * * *

(Authority: 38 U.S.C. 101(22))

(d) * * *

(2) Special additional duties authorized for Reserves (including commissioned officers of the Reserve Corps of the Public Health Service) by the Secretary concerned and performed by them on a voluntary basis in connection with the prescribed training or maintenance activities of the units to which they are assigned; and

(3) Training (other than active duty for training) by a member of, or applicant for membership (as defined in 5 U.S.C. 8140(g)) in, the Senior Reserve Officers' Training Corps prescribed under Chapter 103 of Title 10, United States Code.

(4) * * *

(Authority: 38 U.S.C. 101(23))

(e) *Travel status—training duty (disability or death from injury).* Any individual:

* * * * *

[FR Doc. 89–29012 Filed 12–12–89; 8:45 am]

BILLING CODE 8320–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 675

[Docket No. 90407–9170]

Groundfish of the Bering Sea and Aleutian Islands Area

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

ACTION: Notice of inseason adjustment.

SUMMARY: NOAA announces the apportionment of amounts of Alaska groundfish to the joint venture processing (JVP) portion of the domestic annual harvest (DAH) for pollock in the Aleutian Islands subarea. This action, taken under provisions of the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP), is necessary to assure optimum use of groundfish in that area and to fully achieve the optimum yield.

DATES: Effective December 7, 1989. Comments will be accepted through December 22, 1989.

ADDRESS: Comments should be mailed to Steven Pennoyer, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 21668, Juneau, Alaska 99802, or be delivered to Room 453, Federal Building, 709 West Ninth Street, Juneau, Alaska.

FOR FURTHER INFORMATION CONTACT: Janet E. Smoker (Fishery Management Biologist, NMFS), 907–586–7230.

SUPPLEMENTARY INFORMATION: The FMP is implemented by rules appearing at 50 CFR 611.93 and Part 675.

Initial specifications for DAH, DAP (domestic annual processing), and JVP for 1989 were published at 54 FR 3608. Subsequent reapportionments occurred on September 3 (September 7, 1989, 54 FR 37112), September 16 (September 20, 1989, 54 FR 38686), October 6 (October 13, 1989, 54 FR 41977), October 31

(November 6, 1989, 54 FR 46619), November 9, (November 16, 1989, 54 FR 47683) and November 27 (November 30, 1989, 54 FR 49298).

On November 27, foreign permits were restricted so that all foreign vessels except Polish vessels lost their authorization to receive pollock from U.S. catcher vessels operating in joint venture fisheries. Notice of the decision to amend these permits was published on December 4, 1989, at 54 FR 50009. This action was to allow Polish vessels the opportunity to receive certain amounts of pollock JVP in both the Bering Sea and Aleutian Islands subareas. Because the Aleutian Islands pollock JVP will be raised by 13,000 metric tons (mt) in this notice, the Regional Director intends to inform vessels of all other foreign nations which participate in joint ventures in the Bering Sea and Aleutian Islands area that the permit restriction is modified to allow receipt of pollock in the Aleutian Islands subarea up to the total 13,000 mt reapportioned by this notice, effective on the date of this notice. When the Regional Director determines that 13,000 mt of pollock has been received by foreign fishing vessels other than Polish vessels, or alternatively that the total amount of pollock specified as JVP in the Aleutians Islands subarea (24,018 mt) has been received by foreign fishing vessels, this modification of the permit restriction will expire, and further receipts of pollock will be subject to the terms of the foreign vessels' permits.

Reapportionment

The following actions are taken by this notice to apportion groundfish from the non-specific reserve to the Aleutian Islands subarea JVP: an amount identified as excess to DAP needs for Aleutian Islands subarea pollock, 13,000 mt, is apportioned to JVP for Aleutian Islands subarea pollock. This amount does not result in overfishing of Aleutian Islands subarea pollock, as the resulting amount available for DAH harvest (26,950 mt) is less than the acceptable biological catch (117,900 mt).

Classification

This action is taken under the authority of 50 CFR 675.20(b) and complies with Executive Order 12291.

The Assistant Administrator for Fisheries, NOAA, finds for good cause that it is impractical and contrary to the public interest to provide prior notice and comment. Immediate effectiveness of this notice is necessary to benefit domestic fishermen who have only a few weeks of fishing remaining in the year. However, interested persons are invited to submit comments in writing to the address above for 15 days after the effective date of this notice.

List of Subjects in 50 CFR Part 675

Fish, Fisheries, Reporting and recordkeeping requirements.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: December 7, 1989.

David S. Crestin,

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

TABLE 1—BERING SEA/ALEUTIANS REAPPORTIONMENTS OF TAC

[All values are in metric tons]

	Current	This action	Revised
Pollock (Aleutian Is)			
DAP	2,932		2,932
TAC=13,450; ABC=117,900			
JVP	11,018	+13,000	24,018
Total (TAC = 2,000,000)			
DAP	1,341,387		1,341,387
JVP	622,257	+13,000	635,257
Reserves	36,356	−13,000	23,356

[FR Doc. 89-29016 Filed 12-7-89; 4:28 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 54, No. 238
Wednesday, December 13, 1989

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 907 and 908

[FV-90-111 PR]

Expenses and Assessment Rates for California-Arizona Navel and Valencia Oranges

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would authorize expenditures and establish assessment rates under Marketing Order Nos. 907 and 908 for the 1989–90 fiscal year established for each order. Funds to administer these programs are derived from assessments on handlers. This action is needed in order for the Navel and Valencia Orange Administrative Committees, which are responsible for local administration of the respective orders, to have sufficient funds to meet the expenses of operating the programs. Expenses are incurred on a continuous basis.

DATE: Comments must be received by December 26, 1989.

ADDRESS: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent in triplicate to the Docket Clerk, Marketing Order Administration Branch (MOAB), Fruit and Vegetable Division (F&V), Agricultural Marketing Service (AMS), U.S. Department of Agriculture (USDA), P.O. Box 96456, room 2525–S, Washington, DC 20090–6456. All comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Jacquelyn R. Schlatter, Marketing Specialist, MOAB, F&V, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456; telephone: (202) 447–8139.

SUPPLEMENTARY INFORMATION: This proposed rule is issued under Marketing Order Nos. 907 (7 CFR Part 907) and 908 (7 CFR Part 908), both as amended, regulating the handling of California-Arizona navel and Valencia oranges, respectively. Both orders are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

This proposed rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512–1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 125 handlers of navel oranges and 115 handlers of Valencia oranges subject to regulation under the navel and Valencia orange marketing orders. There are approximately 4,065 producers of navel oranges and 3,500 producers of Valencia oranges in the respective production areas. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual receipts for the last three years of less then $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. The majority of California-Arizona navel and Valencia orange producers and handlers may be classified as small entities.

The navel and Valencia orange marketing orders require that assessment rates for a particular fiscal year shall apply to all assessable navel or Valencia oranges handled from the beginning of such year. An annual budget of expenses is prepared by the Navel Orange Administrative Committee (NOAC) and the Valencia Orange Administrative Committee (VOAC) and submitted to the U.S. Department of Agriculture for approval. The members of the NOAC and VOAC are handlers and producers of navel and Valenica oranges. They are familiar with the NOAC's and VOAC's needs and with the costs for goods, services, and personnel in their local areas and are thus in a position to formulate appropriate budgets. The budgets are formulated and discussed in public meetings. Thus, all directly affected persons have an opportunity to participate and provide input.

The assessment rate recommended by each committee is derived by dividing anticipated expenses by expected shipments of navel or Valencia oranges. Because that rate is applied to actual shipments, it must be established at a rate which will produce sufficient income to pay each committee's expected expenses. The recommended budget and rate of assessment is usually acted upon by each committee shortly before a season starts, and expenses are incurred on a continuous basis. Therefore, budget and assessment rate approvals must be expedited so that the committees will have funds to pay their individual expenses.

The NOAC met on October 31, 1989, and unanimously recommended 1989–90 fiscal year expenditures of $1,377,425 and an assessment rate of $0.027 per carton of navel oranges. In comparison, 1988–89 fiscal year budgeted expenditures were $1,247,455 and the assessment rate was $0.25 per carton. Major expenditure categories in the 1989–90 budget are $367,525 for program administration, $188,805 for compliance activities, $646,350 for the field department, $171,300 for direct expenses, and $3,445 for a salary reserve. This compares to $338,630, $151,020, $583,155, $171,300, and $3,350, respectively, for the 1988–89 fiscal year. Expenditures for the 1989–90 fiscal year have increased because of increases in salary and benefits for the NOAC's personnel, the addition of two auditors to the Compliance Department, and expected relocation expenses. For these reasons, the assessment rate was increased $0.002 per carton to insure adequate income for the 1989–90 fiscal year. Assessment income for 1989–90 is expected to total $1,255,500, based on shipments of 46.5 million cartons of oranges. Interest and incidental income is estimated at $50,500. The NOAC may expend operational reserve funds of $17,425 to meet budgeted expenses.

Additional reserve funds may be used to meet any other unanticipated deficit in assessment income.

The VOAC also met on October 31, 1989, and unanimously recommended 1989–90 fiscal year expenditures of $709,730 and an assessment rate of $0.028 per carton of Valencia oranges. In comparison, 1988–89 fiscal year budgeted expenditures were $694,840 and the assessment rate was $0.028 per carton. Major expenditure categories in the 1989–90 budget are $166,050 for program administration, $85,300 for compliance activities, $292,025 for the field department, $164,800 for direct expenses, and $1,555 for a salary reserve. This compares to $166,785, $74,380, $287,225, $164,800, and $1,650, respectively, for the 1988–89 fiscal year. Assessment income for 1989–90 is expected to total $588,000 based on shipments of 20.6 million cartons of oranges. Interest and miscellaneous income is estimated at $42,500. The VOAC may expend operational reserve funds of $79,230 to meet budgeted expenses. Additional reserve funds may be used to meet any other unanticipated deficit in assessment income.

While this proposed action would impose some additional costs on handlers, the costs are in the form of uniform assessments on all handlers. Some of the additional costs may be passed on to producers. However, these costs would be significantly offset by the benefits derived from the operation of the marketing orders. Therefore, the Administrator of the AMS has determined that his action would not have a significant economic impact on a substantial number of small entities.

Based on the foregoing, it is found and determined that a comment period of less than 30 days is appropriate because the budget and assessment rate approval for these programs need to be expedited. The NOAC and VOAC need to have sufficient funds to pay their expenses, which are incurred on a continuous basis.

List of Subjects

7 CFR Part 907

Arizona, California, Marketing agreements and orders, Navel, Oranges.

7 CFR Part 908

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

For the reasons set forth in the preamble, it is proposed that new §§ 907.227 and 908.229 be added as follows:

1. The authority citation for both 7 CFR parts 907 and 908 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

2. It is proposed that a new § 907.227 is added to read as follows:

§ 907.227 Expenses and assessment rate.

Expenses of $1,377,425 by the Navel Orange Administration Committee are authorized, and an assessment rate of $0.027 per carton of navel oranges is established for the fiscal year ending on October 31, 1990. Unexpended funds from the 1989–90 fiscal year may be carried over as a reserve.

3. It is proposed that a new § 908.229 is added to read as follows:

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

§ 908.229 Expenses and assessment rate.

Expenses of $709,730 by the Valencia Orange Administration Committee are authorized, and an assessment rate of $0.028 per carton of Valencia oranges is established for the fiscal year ending on October 31, 1990. Unexpended funds from the 1989–90 fiscal year may be carried over as reserve.

Dated: December 8, 1989.

William J. Doyle,

Acting Deputy Director, Fruit and Vegetable Division.

[FR Doc. 89–29078 Filed 12–12–89; 8:45 am]

BILLING CODE 3410–02–M

FEDERAL RESERVE SYSTEM

12 CFR Part 229

[Reg. CC; Docket No. R–0644]

RIN 7100–AB01

Availability of Funds and Collection of Checks; Proposed Preemption Determination

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed interpretation.

SUMMARY: The Board is publishing for comment an official Board interpretation concerning a preemption determination under its Regulation CC, Availability of Funds and Collection of Checks, for the laws of California relating to commercial banks, branches of foreign banks, savings and loan associations, and savings banks. The Expedited Funds Availability Act provides standards for determining whether state law governing funds availability supersedes or is preempted by federal law. Under Regulation CC, the Board may issue preemption determinations with respect to state law upon request.

DATE: Comments must be submitted on or before January 16, 1990.

ADDRESSES: Comments, which should refer to Docket No. R–0644, may be mailed to the Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551, Attention: Mr. William W. Wiles, Secretary; or may be delivered to Room B–2223 between 8:45 a.m. and 5:00 p.m. All comments received at the above address will be included in the public file and may be inspected at Room G–1122 between 8:45 a.m. and 5:15 p.m.

FOR FURTHER INFORMATION CONTACT: Louise L. Roseman, Assistant Director (202/452–3874) or Gayle Thompson, Manager (202/452–2934), Division of Federal Reserve Bank Operations; Oliver Ireland, Associate General Counsel (202–452–3625), or Stephanie Martin, Attorney (202/452–3198), Legal Division; for the hearing impaired only: Telecommunications Device for the Deaf, Earnestine Hill or Dorothea Thompson (202/452–3544).

SUPPLEMENTARY INFORMATION:

Background

On May 13, 1988, the Board adopted Regulation CC to carry out the provisions of Expedited Funds Availability Act ("Act") (12 U.S.C. 4001–4010). The regulation requires banks to make funds available to their customers within specified time frames and to disclose their funds availability policies to their customers. A number of states have also enacted rules governing funds availability. The Act (section 608) and Regulation CC (§ 229.20) provide that any provision of state law in effect on or before September 1, 1989, that requires a shorter hold for a category of checks than is required under federal law will supersede the federal provision.

Provisions of state law governing funds availability that permit a bank to make funds available for withdrawal in a longer period than permitted under Regulation CC are considered inconsistent with and are preempted by Regulation CC. In addition, state disclosure and notice requirements concerning funds availability related to accounts covered by Regulation CC are preempted by the federal disclosure scheme.

Regulation CC provides for Board determinations of whether state law

related to the availability of funds is preempted by federal law upon request of a state, bank, or other interested party.

Discussion

On August 18, 1988, the Board issued for public comment a proposed preemption determination for California (53 FR 32359, August 24, 1988). California has different funds availability regulations governing (1) commercial banks and branches of foreign banks, (2) savings and loan associations and savings banks, (3) credit unions, and (4) industrial loan companies. The California State Banking Department and the State of California Department of Savings and Loan requested, in their comments, that the Board defer adoption of preemption determinations with regard to commercial banks, branches of foreign banks, savings and loan associations, and savings banks until the emergency regulations promulgated by those departments in October 1988 were adopted in final form. In November 1988, the Board published a summary of the comments received and a final preemption determination for the California funds availability law with respect to credit unions and industrial loan companies (54 FR 44325, November 2, 1988).

California's final regulations regarding commerical banks and branches of foreign banks became effective on April 12, 1989, and its final regulations regarding savings and loan associations and savings banks were approved on March 8, 1989. The new regulations are significantly different from those that were in effect when the Board issued its first proposed preemption determination in August 1988. Therefore, the Board is now requesting comment on revised preemption determinations with respect to the final state regulations. Generally, both sets of California regulations adopt the provisions of Regulation CC, but expand coverage to include certain non-transaction accounts. In addition, the State Banking Department regulations provide for shorter availability than Regulation CC in some cases and supersede the federal law in those cases.

List of Subjects in 12 CFR Part 229

Banks, banking; Federal Reserve System.

For the reasons set out in the preamble, 12 CFR part 229 is proposed to be amended as follows:

PART 229—[AMENDED]

1. The authority citation for part 229 continues to read as follows:

Authority: Title VI of Pub. L. 100–86, 101 Stat. 552, 635, 12 U.S.C. 4001 et seq.

2. In appendix F, the California preemption determination is amended by revising the second and third sentences of the second paragraph, and by adding, within the reserved sections, preemption determinations for Commercial Banks and branches of Foreign Banks and for Savings Institutions.

Appendix F—Offical Board Interpretations; Preemption Determinations

* * * * *

California

* * * * *

* * * The regulations applicable to commercial banks and branches of foreign banks located in California (Cal. Admin. Code tit. 10, §§ 10.190401–10.190402) were promulgated by the Superintendent of Banks. The regulations applicable to savings banks and savings and loan associations (Cal. Admin. Code tit. 10, §§ 106.200–106.202) were adopted by the Savings and Loan Commissioner. * * *

* * * * *

Commercial Banks and Branches of Foreign Banks

Coverage. The California State Banking Department regulations, which apply to California state commercial banks, California national banks, and California branch offices of foreign banks, provide that a depositary bank shall make funds deposited into a deposit account available for withdrawal as provided in Regulation CC with certain exceptions. The funds availability schedules in Regulation CC apply only to "accounts" as defined in Regulation CC, which generally consist of transaction accounts. The California funds availability law and regulations apply to accounts as defined by Regulation CC as well as savings accounts (other than time accounts), as defined in the Board's Regulation D (12 CFR 204.2(d)). (Note, however, that under § 229.19(e) of Regulation CC, Holds on other funds, the federal availability schedules may apply to savings, time, and other accounts not defined as "accounts" under Regulation CC in certain circumstances.)

Availability Schedules. Temporary schedule. Regulation CC provides that, until September 1, 1990, nonlocal checks must be made available for withdrawal by the seventh business day after the banking day of deposit, except for certain nonlocal checks listed in Appendix B–1, which must be made available within a shorter time (by the fifth business day following deposit for those California checks listed.) Under the temporary schedule in the California regulations, a depositary bank with a four-digit routing symbol of 1210 ("1210 bank") or of 1220 ("1220 bank") that receives for deposit a check drawn on a nonlocal, in-state commercial bank or foreign bank branch [1] must make the funds available for withdrawal by the fourth business day after the day of deposit. The California regulations provide that 1210 and 1220 banks must make deposited checks drawn on nonlocal in-state thrifts (defined as savings and loan associations, savings banks, and credit unions) available by the fifth business day after deposit. In addition, California law provides that all other depositary banks must make deposited checks drawn on a nonlocal in-state commercial bank or foreign bank branch available by the fifth business day after deposit and checks drawn on nonlocal in-state thrifts available by the sixth business day after deposit. To the extent that these schedules provide for shorter holds than Regulation CC and its Appendix B–1, the state schedules supersede the federal schedules. [2] For example, the California four-day schedule that applies to checks drawn on in-state nonlocal commercial banks or foreign bank branches and deposited in a 1210 or 1220 bank would be shorter than and would superseded the federal schedules.

The California regulations do not specify whether the state schedules apply to deposits of checks at nonproprietary ATMs. Under the temporary schedules in Regulation CC, deposits at nonproprietary ATMs must be made available for withdrawal by

[1] The California regulation uses the term "paying bank" when describing the institution on which these checks are drawn, but does not define "paying bank" or "bank." Regulation CC's definitions of "paying bank" and "bank" include savings institutions and credit unions as well as commercial banks and branches of foreign banks. However, because the California regulation makes separate provisions for checks drawn on savings institutions as credit unions, the Board interprets the term "paying bank," as used in the California regulation, to include only commercial banks and foreign bank branches.

[2] Appendix B–1 of Regulation CC provides that the federal schedules will be the same as the California schedules (5 days) in the following cases: a depositary bank bearing a 1210 routing number receiving for deposit checks bearing a 3220 or a 3223 routing number, and a depositary bank bearing a 1220 routing number receiving for deposit checks bearing a 3210 routing number. In the cases where federal and state law are the same, the state law is not preempted by, nor does it supersede, the federal law.

the seventh business day following deposit. To the extent that the California schedules provide for shorter availability for deposits at nonproprietary ATMs, they would supersede the nonproprietary ATMs specified in § 229.11(d).

Permanent schedule. Regulation CC provides that, as of September 1, 1990, nonlocal checks must be made available for withdrawal by the fifth business day after the banking day of deposit. Under the permanent schedule in the California regulations, a depositary bank with a four-digit routing symbol of 1210 or of 1220 that receives for deposit a check drawn a nonlocal, in-state commercial bank or foreign bank branch must make the funds available for withdrawal by the fourth business day after the day of deposit. These state schedules provide for shorter hold periods than and thus supersede the federal schedules.

Second-day availability. Section 867 of the California Financial Code requires depository institutions to make funds deposited by cashier's check, teller's check, certified check, or depository check available for withdrawal on the second business day following deposit, if certain conditions are met. The Regulation CC next-day availability requirement for cashier's checks and teller's checks applies only to those checks issued to a customer of the bank or acquired from the bank for remittance purposes. To the extent that the state second-day availability requirement applies to cashier's and teller's checks issued to a non-customer of the bank for other than remittance purposes, the state two-day requirement supersedes the federal local and nonlocal schedules.

Availability at start of day. The California regulations do not specify when during the day funds must be made available for withdrawal. Section 229.19(b) of Regulation CC provides that funds must be made available at the start of the business day. In those cases where federal and state law provide for holds for the same number of days, to the extent that the California regulations allows funds to be made available later in the day than does Regulation CC, the federal law would preempt state law.

Exceptions to the availability schedules. The California regulations do not provide for any exceptions to the availability schedules, nor do they indicate that any federal exceptions apply to those deposits for which the state schedules supersede the federal schedules. Under the state preemption standards of Regulation CC (see § 229.20(c) and accompanying Commentary), for deposits covered by the state availability schedules, a state exception may be used to extend the state availability schedule up to the federal availability schedule. Once the deposit is held up to the federal availability schedule limit under a state exception, the depository bank may further extend the hold under any federal exception that can be applied to the deposit. In those cases where the California schedules supersede Regulation CC, no exception holds may be applied because there are no state provisions for lengthening the state hold periods.

Disclosures. California law (Cal. Fin. Code § 866.2) requires depository institutions to provide written disclosures of their general availability policies to potential customers prior to opening any deposit account. The law also requires that preprinted deposit slips and ATM deposit envelopes contain a conspicuous summary of the general policy. Finally, the law requires depository institutions to provide specific notice of the time the customer may withdraw funds deposited by check or similar instrument into a deposit account if the funds are not available for immediate withdrawal.

Section 229.20(c)(2) of Regulation CC provides that inconsistency may exist when a state law provides for disclosures or notices concerning funds availability relating to accounts. California Financial Code Section 866.2 requires disclosures that differ from those required by Regulation CC and, therefore, is preempted to the extent that it applies to "accounts" as defined in Regulation CC. The state law continues to apply to savings accounts and other accounts not governed by Regulation CC disclosure requirements.

Savings Institutions

Coverage. The California Department of Savings and Loan regulations, which apply to California savings and loan associations and California savings banks, provide that a depository bank shall make funds deposited into a transaction or non-transaction account available for withdrawal as provided in Regulation CC. The funds availability schedules in Regulation CC apply only to "accounts" as defined in Regulation CC, which generally consist of transaction accounts. The California funds availability law and regulations apply to accounts as defined by Regulation CC as well as savings accounts as defined in the Board's Regulation D (12 CFR 204.2(d)). (Note, however, that under § 229.19(e) of Regulation CC, Holds on other funds, the federal availability schedules may apply to savings, time, and other accounts not defined as "accounts" under Regulation CC in certain circumstances.)

Availability Schedules. Second-day availability. Section 867 of the California Financial Code requires depository institutions to make funds deposited by cashier's check, teller's check, certified check, or depository check available for withdrawal on the second business day following deposit, if certain conditions are met. The Regulation CC next-day availability requirement for cashier's checks and teller's checks applies only to those checks issued to a customer of the bank or acquired from the bank for remittance purposes. To the extent that the state second-day availability requirement applies to cashier's and teller's checks issued to a non-customer of the bank for other than remittance purposes, the state two-day requirement supersedes the federal local and nonlocal schedules.

Temporary and Permanent Schedules. Other than the provisions of Section 867 as discussed above, California law incorporates the Regulation CC availability requirements with respect to deposits to accounts covered by Regulation CC. Because the state requirements are consistent with the federal requirements, the California regulation is not preempted by, nor does it supersede, the federal law.

Disclosures. California law (Cal. Fin. Code § 866.2) requires depository institutions to provide written disclosures of their general availability policies to potential customers prior to opening any deposit account. The law also requires that preprinted deposit slips and ATM deposit envelopes contain a conspicuous summary of the general policy. Finally, the law requires depository institutions to provide specific notice of the time the customer may withdraw funds deposited by check or similar instrument into a deposit account if the funds are not available for immediate withdrawal. The Department of savings and Loan regulations provide, however, that for those accounts covered by state law but not by federal law, disclosures in accordance with Regulation CC will be deemed to comply with the state law disclosure requirements.

Section 229.20(c)(2) of Regulation CC provides that inconsistency may exist when a state law provides for disclosures or notices concerning funds availability relating to accounts. To the extent that California Financial Code § 866.2 requires disclosures that differ from those required by Regulation CC

and apply to "accounts" as defined in Regulation CC, the California law is preempted by Regulation CC. To the extent that the Department of Savings and Loan regulations permitting reliance on Regulation CC disclosures survive the preemption of California Financial Code Section 866.2, they are not preempted by, nor do they supersede, the federal law. The state law continues to apply to savings accounts and other accounts not governed by Regulation CC disclosure requirements.

By order of the Board of Govenrors of the Federal Reserve System, December 7, 1989.

William W. Wiles,

Secretary of the Board.

[FR Doc. 89-29011 Filed 12-12-89; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF JUSTICE

Office of the Attorney General

28 CFR Part 76

[Order No. 1382-89]

Implementation of Civil Penalties Under Anti-Drug Abuse Act of 1988

AGENCY: Department of Justice.

ACTION: Proposed rule.

SUMMARY: Section 6486 of the Anti-Drug Abuse Act of 1988, Public Law 100-690, (hereinafter the Act), 21 U.S.C. 844(a), provides for civil penalties for the possession of small amounts of certain controlled substances. In order to implement this provision, this proposed rule sets forth the procedures to be followed in all matters brought before Administrative Law Judges when a complaint is filed seeking a civil penalty from a respondent who has violated this provision of the Act. The proposed rule will also provide notice to respondents and, where appropriate, their counsel, as to the rules of procedure that will be followed by Administrative Law Judges and United States Attorneys when their respective cases are heard.

DATE: Comments must be received on or before January 12, 1990.

ADDRESSES: Please submit written comments in duplicate to: George W. Calhoun, Senior Counsel, Room 4114, Department of Justice, 10th and Constitution Avenue, NW., Washington, DC 20530.

FOR FURTHER INFORMATION CONTACT: George W. Calhoun, Senior Counsel, Room 4114, Department of Justice, 10th and Constitution Avenue, NW., Washington, DC 20530. Tel. No. (202) 633-4374. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: As a part of the nation's continuing war on drugs, Congress enacted the Anti-Drug Abuse Act of 1988. Included in that Act is a new alternative to criminal prosecution of drug abusers. The provision authorizes imposition of a civil penalty up to $10,000 for the possession of small amounts of certain controlled substances for personal use. The objective Congress sought to achieve was to find a way to punish drug use where it appears that a financial penalty would be a sufficient punishment and deterrent.

Under section 6486 of the Act, Congress gave the Attorney General, acting through United States Attorneys or their designees, the power to file a complaint with an Administrative Law Judge against an individual (the respondent), and to seek an Order commanding the payment of a civil penalty. With certain exceptions, the administrative proceeding described below will follow the procedure set out in 28 CFR 68.2. At the conclusion of the hearing, the Administrative Law Judge (ALJ) will enter an opinion. If the ALJ orders the payment of a civil penalty, that Final Order will be reviewed by the Attorney General or his designee. The Attorney General then has the power to accept that Order, modify it, or set it aside. The Attorney General's Order is the final agency action, subject to review only by a United States Federal District Court. If an appeal is sought in a Federal Court, the trial will be *de novo* and the respondent will have the right to counsel, the right to a trial by jury, and the right to confront witnesses. The Attorney General also has the power to later expunge the record of payment of a civil penalty if certain provisions are met by the respondent.

In accordance with 5 U.S.C. 605(b), the Attorney General certifies that the rule will not have a significant economic impact on a substantial number of small entities. This rule, if promulgated, will not be a major rule within the meaning of Paragraph 1(b) of E.O. 12291.

List of Subjects in 28 CFR Part 76

Drugs, Drug traffic control, Drug abuse, Authority delegations (Government agencies), Penalties.

Therefore, by virtue of the authority vested in me by law, including 28 U.S.C. 509, 510, 5 U.S.C. 301, and 21 U.S.C. 844(a), it is proposed to amend title 28 of the Code of Federal Regulations by adding a new part 76 to read as follows:

PART 76—RULES OF PROCEDURE FOR ASSESSMENT OF CIVIL PENALTIES FOR POSSESSION OF CERTAIN CONTROLLED SUBSTANCES

Sec.

Authority: 5 U.S.C. 301; 28 U.S.C. 509, 510; 21 U.S.C. 844(a).

§ 76.1 Purpose

This part implements section 6486 of the Anti-Drug Abuse Act of 1988 (the Act), 21 U.S.C. 844(a). This part establishes procedures for imposing civil penalties against persons who knowingly possess a controlled substanced for personal use that is listed in 21 CFR 1316.91(j)(2) in violation of 21 U.S.C. 844(a) and specifies the appeal rights of persons subject to a

penalty pursuant to Section 6486 of the Act.

§ 76.2 Definitions.

(a) "Act" means the Anti-Drug Abuse Act of 1988, Pub. L. 100–690;

(b) "Adjudicatory proceeding" means a judicial-type proceeding leading to the formulation of a Final Order;

(c) "Administrative Law Judge" means an Administrative Law Judge appointed pursuant to the provisions of 5 U.S.C. 3105;

(d) "Administrative Procedure Act" means those provisions of the Administrative Procedure Act which are contained in 5 U.S.C. 551 thrugh 559;

(e) "Attorney General" means the Attorney General of the United States or his or her designees;

(f) "Department" means the U.S. Department of Justice;

(g) "Penalty" means the amount described in 28 CFR 76.3 and includes the plural of that term;

(h) The term "Personal Use Amount" means possession of controlled substances in circumstances where there is no other evidence of an intent to distribute, or to facilitate the manufacturing, compounding, processing, delivering, importing or exporting of any controlled substance. Evidence of personal use amounts shall not include sweepings or other evidence of possession of amounts of a controlled substance for other than personal use. The following criteria shall be used to determine whether an amount of controlled substance in a particular case is in fact a personal use amount. The absence of any of the factors listed in paragraphs (h)(1) through (h)(5) of this section and the existence of the factor in paragraph (h)(6) of this section shall be relevant, although not necessarily conclusive, to establish that the possession was for personal use.

(1) Evidence, such as drug scales, drug distribution paraphernalia, drug records, drug packaging material, method of drug packaging, drug "cutting" agents and other equipment, that indicates an intent to process, package or distribute a controlled substance;

(2) Information from reliable sources indicate possession of a controlled substance with intent to distribute;

(3) The controlled substance is related to large amounts of cash or any amount of prerecorded government funds;

(4) The controlled substance is possessed under circumstances that indicate such a controlled substance is a sample intended for distribution in anticipation of a transaction involving large amounts, or is part of a larger delivery; or

(5) Statements by the possessor, or otherwise attributable to the possessor, including statements of conspirators, that indicate possession with intent to distribute.

(6) The amounts do not exceed the following:

(i) One gram of mixture or substance containing a detectable amount of heroin;

(ii) One gram of a mixture or substance containing a detectable amount of—

(A) Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivations of ecgonine or their salts have been removed;

(B) Cocaine, it salts, optical and geometric isomers, and salts of isomers;

(C) Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

(D) Any compound, mixture, or preparation which contains any quantity of any of the substances referred to in paragraphs (h)(6)(ii)(A) through (h)(6)(ii)(C) of this section;

(iii) 1/10 gram of a mixture or substance described in paragraph (h)(6)(ii) of this section which contains cocaine base;

(iv) 1/10 gram of a mixture or substance containing a detectable amount of phencyclidine (PCP);

(v) 500 micrograms of a mixture or substance containing a detectable amount of lysergic acid diethylamide (LSD);

(vi) One ounce of a mixture or substance containing a detectable amount of marijuana;

(vii) One gram of methamphetamine, its salts, isomers, and salts of its isomers, or one gram of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomers.

(i) "United States Attorney" means the United States Attorney in the federal district in which the alleged violation occurred, or his or her designees;

(j) "Commencement of proceeding" is the filing of a complaint with the Administrative Law Judge who has been assigned by the Department to hear and decide cases under section 6486 of the Act within the federal district where the United States Attorney's Office is located;

(k) "Complainant" means the United States Attorney of the United States of America;

(l) "Complaint" means the formal document initiating an adjudicatory proceeding;

(m) "Consent Order" means any written document containing a specified remedy or other relief agreed to by all parties and entered as an Order by the Administrative Law Judge;

(n) "Hearing" means that part of a proceeding which involves the submission of evidence, either by oral presentation or written submission;

(o) "Motion" means an oral or written request, made by a person or party, for some action by an Administrative Law Judge;

(p) "Order" means the whole or any part of a final procedural or substantive disposition of a matter by the Administrative Law Judge;

(q) "Party" includes any person named or admitted as a complainant or respondent; and

(r) "Respondent" means any persons alleged in a complaint under 28 CFR 76.5 to be liable for a civil penalty or assessment under 28 CFR 76.3.

§ 76.3 Basis for civil penalties and assessments.

(a) Any individual who knowingly possesses a controlled substance that is listed in § 76.2(h) in violation of 21 U.S.C. 844(a) shall be liable to the United States for a civil penalty in an amount not to exceed $10,000 for such violation.

(b) The income and net assets of an individual shall not be relevant to the determination whether to assess a civil penalty under this part or to prosecute the individual criminally. However, if a decision is made to assess a civil penalty, the income and net assets of an individual shall be considered in determining the amount of a penalty under this part.

(c) A civil penalty may not be assessed under this part if the individual previously was convicted of a Federal or State offense relating to the same controlled substance(s) transaction as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).

(d) A civil penalty may not be assessed under this part if the individual has been assessed a civil penalty on two separate previous occasions.

(e) A civil penalty under this part may be assessed by the Attorney General only after an Order has been issued on the record and after an opportunity for a hearing has been given in accordance with 5 U.S.C. 554. The Attorney General by and through the United States Attorney having jurisdiction over the matter shall provide written notice to the individual who is the subject of the proposed Order informing the individual of the opportunity to receive such a hearing with respect to the proposed order. The hearing may be held only if the individual makes a request for the hearing before the expiration of the

thirty (30) day period beginning on the date such notice is issued.

§ 76.4 Enforcement procedures.

(a) *Commencement of proceedings.* If the United States Attorney's office having jurisdiction over the matter determines that a person has violated section 6486 of the Act, the proceeding to assess a civil penalty under Section 6486 of the Act shall be commenced by the United States Attorney issuing a Notice of Intent to Assess Civil Penalty. Service of this Notice shall be accomplished pursuant to 28 CFR 76.6. The person identified in the Notice of Intent to Assess Civil Penalty shall be known as the respondent.

(b) *Notice of intent to assess a civil penalty.* The Notice of Intent to Assess Civil Penalty will contain a concise statement of factual allegations informing the respondent of the act or conduct alleged to be in violation of law, a designation of the charge(s) against the respondent, the statutory provisions alleged to have been violated, and the penalty proposed,. The Notice of Intent to Assess a Civil Penalty will advise the respondent of the following:

(1) That the respondent has the right to representation by counsel, but not at government expense;

(2) That any statement given during the course of preceeding may be used against the person in any subsequent proceeding including a criminal prosecution, if prosecution of the Assessement of a Civil Penalty is not successful or if the information involves another criminal offense;

(3) That the respondent has the right to request a hearing before an Administrative Law Judge pursuant to 5 U.S.C. 554–557, and that such request, in accordance with paragraph (c) of this section, must be made within 30 days from the date the notice is issued; and

(4) That the United States Attorney may issue, where possible, a decision in forty-five (45) days if a written request for a hearing is not timely received and that there will be no appeal of the decision.

(c) *Answer to notice of intent to assess civil penalty.* To timely request a hearing in response to the issuance of a Notice of Intent to Assess a Civil Penalty, a respondent must, by mail, serve a written answer responding to each allegation listed in the Notice and request a hearing, in accordance with paragraph (b) of this section, within thirty (30) days from the issuance of the Notice. If the respondent does not file an answer within thirty days, the Attorney General by and through his designee may issue a Final Order, to which there is no appeal, ordering a payment of a civil penalty.

§ 76.5 Complaint.

(a) If the respondent requests a hearing, the United States Attorney shall, within fifteen (15) days after receipt of the request, file a complaint against the respondent with an Administrative Law Judge who has been assigned to hear and decide the case and serve a copy of the complaint on the respondent as provided in 28 CFR 76.6.

(b) The complaint shall contain a concise statement of factual allegations informing the respondent of the act or conduct alleged to be in violation of law, the approximate date, place and location of the alleged violation including the federal district, a designation of the charge(s) against the respondent, the statutory provisions alleged to have been violated, and the maximum amount of penalties and assessments for which the respondent could be held liable.

§ 76.6 Service and filing of documents.

(a) *Generally.* Unless ordered otherwise, an original and one copy of the complaint and all other pleadings shall be filed with the Administrative Law Judge who have been assigned to the case. A copy of all pleadings, including any attachments shall be delivered or mailed to all other parties of record. Each pleading filed shall be clear and legible.

(b) *By or on parties.* Service should normally be on the respondent. When it is known that a respondent is represented by an attorney, service shall be made upon the attorney. Service of any document upon any party or his or her representative may be made by personal delivery or by mailing a copy to his or here last known address. The party serving the document shall certify the manner and date of service.

(c) *By the Administrative Law Judge.* Service of Notices, Orders and Decisions shall be made by regular mail to the last known addresses of the parties or, if the parties are known to be represented by an attorney, to the attorney.

(d) *Service of notice of hearing.* Service of Notice of the Date Set for Hearing shall be made by the Administrative Law Judge with whom the complaint has been filed either by delivering a copy to the individual party or, if known, to the attorney of record of a party; or by leaving a copy at the principal office, place of business, or residence of a party; or by mailing a copy to the last known address of such individual or his or her attorney. Service is complete upon receipt by addressee in accordance with 28 CFR 76.8.

§ 76.7 Content of pleadings.

(a) Every pleading shall contain a caption setting forth the statutory provision under which the proceeding is instituted, the title of the proceeding, the docket number assigned by the Administrative Law Judge, the names of all parties, and a designation of the type of pleading or paper (e.g., complaint, motion to dismiss). The pleading shall be signed and shall contain the address and telephone number of the party or person representing the party. The pleadings should be typewritten when possible on standard size (8½ x 11) paper. Legal size (8½ x 14) paper will not be accepted, except upon approval by the Administrative Law Judge.

(b) Illegible documents, whether handwritten, typewritten, photocopied, or otherwise, will not be accepted. Papers may be reproduced by any duplicating process, provided all copies are clear and legible.

(c) All documents presented by a party in a proceeding must be in English or, if in a foreign language, accompanied by a certified translation.

§ 76.8 Time consumptions.

(a) *Generally.* In computing any period of time under these rules or in an Order issued hereunder, the time begins with the day following the act, event, or default requiring service, and includes the last day of the period unless it is a Saturday, Sunday, or legal holiday observed by the Federal Government, in which case the time period includes the next business day. When the period of time prescribed is seven (7) days or less, intermediate Saturdays, Sundays, and holidays shall be excluded in the computation.

(b) *Date of entry of orders.* In computing any period of time involving the date of the entry of an Order, the date of entry shall be the date the Order is entered.

(c) *Computation of time for filing by mail.* Pleadings are not deemed filed until served upon the Administrative Law Judge assigned to the case. However, when pleadings are filed by mail, five (5) days shall be added to the prescribed period.

§ 76.9 Responsive pleading—answer.

(a) *Time for answer.* A respondent shall file an answer within thirty (30) days after the service of a complaint.

(b) *Default.* Failure of the respondent to file and serve an answer within the time provided shall be deemed to constitute a waiver of his or her right to

appear and contest the allegations of the complaint. The Administrative Law Judge may enter a judgement by default.

(c) *Answer.* Any respondent contesting any material fact alleged in a complaint, or contending that he or she is entitled to judgement as a matter of law, shall file an answer in writing.

(1) The answer shall include a statement of the facts supporting each affirmative defense.

(2) The answer shall include a statement that the respondent admits, denies, or does not have and is unable to obtain sufficient information to admit or deny each allegation.

(3) A statement of lack of information shall have the affect of a denial.

(4) Any allegation not expressly denied shall be deemed to be admitted.

(d) *Reply.* A complainant may file a reply responding to each affirmative defense asserted if the Administrative Law Judge, pursuant to 28 CFR 76.10, so provides.

(e) *Amendments and supplemental pleadings.* If it will facilitate resolution of the controversy, the Administrative Law Judge may, upon such conditions as are necessary to avoid prejudicing the public interest and the rights of the parties, allow appropriate amendments to complaints and other pleadings at any time prior to the issuance of the Administrative Law Judge's Final Order based on the complaint. When issues not raised by the pleadings are reasonably within the scope of the original complaint and are tried by express or implied consent of the parties, they shall be treated in all respects as if they had been raised in the pleadings, and such amendments may be made as necessary to make the pleadings conform to the evidence. The Administrative Law Judge may, upon reasonable notice and such terms as are just, permit supplemental pleadings setting forth transactions, occurrences, or events which have happened or new law promulgated since the date of the pleadings and which are relevant to any of the issues involved.

§ 76.10 Motions and requests.

(a) *Generally.* Any application for an Order or any other request shall be made by motion which shall be in writing (unless the Administrative Law Judge in the course of an oral hearing consents to accept such motion orally), shall state with particularity the grounds therefore, and shall set forth the relief or Order sought. Motions or requests made during the course of any oral hearing or appearance before an Administrative Law Judge may be stated orally or in writing, and all parties shall be given reasonable opportunity to respond or object to the motion or request.

(b) *Answers to motions.* Within ten (10) days after a written motion is served, or within such other period as the Administrative Law Judge may fix, any party to the proceeding may file an answer in support of, or in opposition to, the motion, accompanied by such affidavits or other evidence as the party desires to rely upon. Unless the Administrative Law Judge provides otherwise, no reply to an answer, response to a reply, or any further responsive document shall be filed.

(c) *Oral arguments or briefs.* No oral argument will be heard on motions unless the Administrative Law Judge otherwise directs. Written memoranda or briefs may be filed with motions or answers to motions, stating the points and authorities relied upon in support of the position taken.

§ 76.11 Notice of hearing.

(a) When the Administrative Law Judge receives the compliant and answer, the Administrative Law Judge shall cause to be served a Notice of Hearing upon the parties in the manner prescribed by 28 CFR 76.5.

(b) Such notice shall include:

(1) The tentative time and place and nature of the hearing. In fixing the time and place of the hearing, the Administrative Law Judge will attempt to minimize the costs to the parties;

(2) The legal authority and jurisdiction under which the hearing is to be held;

(3) The description of the procedures for the conduct of the hearing; and

(4) Such other matters as the Administrative Law Judge deems appropriate.

§ 76.12 Prehearing statements.

(a) At any time prior to the commencement of the hearing, the Administrative Law Judge may order any party to file a prehearing statement of position.

(b) A prehearing statement shall state the name of the party or parties on whose behalf it is presented and shall briefly set forth the following matters, unless otherwise ordered by the Administrative Law Judge:

(1) Issues involved in the proceedings;

(2) Facts stipulated together with a statement that the party or parties have communicated or conferred in a good faith effort to reach stipulation to the fullest extent possible;

(3) Facts in dispute;

(4) Witnesses, except to the extent that disclosure would be privileged, and exhibits by which disputed facts will be litigated;

(5) A brief statement of applicable law;

(6) The conclusions to be drawn;

(7) The estimated time required for presentation of the party's or parties' case; and

(8) Any appropriate comments, suggestions, or information which might assist the parties or the Administrative Law Judge in preparing for the hearing or otherwise aid in the disposition of the proceeding.

§ 76.13 Parties to the hearing.

The parties to the hearing shall be the United States Attorney and the respondent.

§ 76.14 Separation of functions.

An employee or an agent of the Department who is engaged in investigative or prosecutive functions for or on behalf of the Department in a case may not, in that case or a factually-related case, participate or advise in the decision, except as a witness or counsel in public proceedings.

§ 76.15 Ex parte communications.

(a) *Generally.* No party or person (except employees in the Administrative Law Judge's office) shall communicate in any instance with the Administrative Law Judge on any matter at issue in a case, unless notice and opportunity has been afforded for all parties to participate. This provision does not prohibit a person or party from inquiring about the status of a case or asking routine questions concerning administrative functions or procedures.

(b) *Sanctions.* A party or participant who makes a prohibited *ex parte* communication, or who encourages or solicits another to make any such communication, may be subject to any appropriate sanctions, including, but not limited to, exclusion from the proceedings and an adverse ruling on the issue which is the subject of the prohibited communication.

§ 76.16 Disqualification of Administrative Law Judge.

(a) An Administrative Law Judge in a particular case may disqualify himself or herself at any time.

(b) A party may file a motion for disqualification of an Administrative Law Judge. Such motion shall be accompanied by an affidavit alleging personal bias or other reason(s) for disqualification.

(c) Such motion and affidavit shall be filed promptly upon the party's discovery of reasons requiring disqualification, or such objections shall be deemed waived.

(d) Such affidavit shall state specific facts that support the party's belief that personal bias or other reason(s) for disqualification exists and the time and circumstances of the party's discovery of such facts. It shall be accompanied by a certificate of the party or representative of record that it is made in good faith.

(e) Upon the filing of such a motion and affidavit, the Administrative Law Judge shall proceed no further in the case until he or she resolves the matter of disqualification in accordance with this section. If the Administrative Law Judge determines that he or she is disqualified, the case shall be reassigned promptly to another Administrative Law Judge. If the Administrative Law Judge denies a motion to disqualify, the Chief Judge may determine the matter only as part of his or her review of the initial decision upon appeal, if any.

§ 76.17 Rights of parties.

Except as otherwise limited by this part, all parties may:

(a) Be accompanied, represented, and advised by a representative;

(b) Participate in any conference held by the Administrative Law Judge;

(c) Conduct discovery in accordance with 28 CFR 76.18 and 76.21;

(d) Agree to stipulations of fact or law, which shall be made part of the record;

(e) Present evidence relevant to the issues at the hearing;

(f) Present and cross-examine witnesses;

(g) Present oral arguments at the hearing as permitted by the Administrative Law Judge; and

(h) Submit written briefs and proposed findings of fact and conclusions of law after the hearing.

§ 76.18 Authority of the Administrative Law Judge.

(a) The Administrative Law Judge shall conduct a fair and impartial hearing, avoid delay, maintain order, and assure that a record of the proceeding is made.

(b) The Administrative Law Judge has the authority to:

(1) Set and change the date, time and place of the hearing upon reasonable notice to the parties;

(2) Continue or recess the hearing in whole or in part for a reasonable period of time;

(3) Hold conferences to identify or simplify the issues, or to consider other matters that may aid in the expeditious disposition of the proceding;

(4) Administer oaths and affirmations;

(5) Issue subpoenas requiring the attendance of witnesses and the production of documents at depositions or at hearings;

(6) Rule on motions and other procedural matters;

(7) Regulate the scope and timing of discovery;

(8) Regulate the course of the hearing and the conduct of representatives and parties;

(9) Examine witnesses;

(10) Receive, rule on, exclude, or limit evidence;

(11) Upon motion of a party, take official notice of facts;

(12) Upon motion of a party, decide cases, in whole or in part, by summary judgment where there is no disputed issue of material fact;

(13) Conduct any conference, argument, or hearing on motions in person or by telephone; and

(14) Exercise such other authority as necessary to carry out the responsibilities of the administrative Law Judge under this part.

(c) The Administrative Law Judge does not have the authority to find Federal status or regulations invalid.

§ 76.19 Conferences.

(a) *Purpose and scope.* Upon motion of a party or in the Administrative Law Judge's discretion, the Judge may direct the parties or their counsel to participate in a conference at any reasonable time prior to the hearing, or during the course of the hearing, when the Judge finds that the proceeding would be expedited by such a conference. Prehearing conferences normally shall be conducted by telephone conference unless, in the opinion of the Administrative Law Judge, such method would be impractical, or when such conferences can be conducted in a more expeditious or effective manner by correspondence or personal appearance. Reasonable notice of the time, place, and manner of the prehearing conference shall be given. At the conference, the following matters may be considered:

(1) The simplification of issues;

(2) The necessity of amendments to pleadings;

(3) The possibility of obtaining stipulations of facts and of the authenticity, accuracy, and admissibility of documents, which will avoid unnecessary proof;

(4) The limitations on the number of expert or other witnesses;

(5) Negotiations, compromise, or settlement of issues;

(6) The exchange of copies of proposed exhibits;

(7) The identification of documents or matters of which official notice may be required;

(8) A schedule to be followed by the parties for completion of the actions decided at the conference; and

(9) Such other matters, including the disposition of pending motions, as may expedite and aid in the disposition of the proceeding.

(b) *Reporting.* A verbatim record of the conference will not be kept unless directed by the Administrative Law Judge.

(c) *Order.* Actions taken as a result of a conference shall be reduced to a written Order, unless the Administrative Law Judge concludes that a stenographic report shall suffice or, if the conference takes place within seven (7) days of the beginning of the hearing, the Administrative Law Judge elects to make a statement on the record at the hearing summarizing the actions taken.

§ 76.20 Consent Order or settlement prior to hearing.

(a) *Generally.* At any time after the commencement of a proceeding, the parties jointly may move to defer the hearing for a reasonable time to permit negotiation of a settlement or an agreement containing findings and an Order disposing of the whole or any part of the proceeding. The allowance of such deferment and the duration thereof shall be at the discretion of the Administrative Law Judge, after consideration of such factors as the nature of the proceeding, the requirements of the public interest, the representations of the parties, and the probability of reaching an agreement which will result in a just disposition of the issue involved. The Administrative Law Judge may require the parties to submit progress reports on a regular basis as to the status of negotiations.

(b) *Consent orders.* Any agreement containing consent findings and an Order disposing of a proceeding or any part thereof shall also provide:

(1) That the Order shall have the same force and effect as an Order made after full hearing;

(2) That the entire record on which any Order may be based shall consist solely of the complaint or notice of administrative determination (or amended notice, if one is filed), as appropriate, and the agreement;

(3) A waiver of any further procedural steps before the Administrative Law Judge; and

(4) A waiver of any right to challenge or contest the validity of the order entered into in accordance with the agreement.

(c) *Submission.* On or before the expiration of the time granted for negotiations, the parties or their authorized representatives or their counsel may:

(1) Submit the proposed agreement containing consent findings and an Order for consideration by the Administrative Law Judge; or

(2) Notify the Administrative Law Judge that the parties have reached a full settlement and have agreed to dismissal of the action; or

(3) Inform the Administrative Law Judge that agreement cannot be reached.

(d) *Disposition.* In the event an agreement containing consent findings and an order is submitted, the Administrative Law Judge, within thirty (30) days or as soon as practicable thereafter may, if satisfied with its timeliness, form, and substance, accept such agreement by issuing a decision based upon the agreed findings. The Administrative Law Judge has the discretionary authority to conduct a hearing to determine the fairness of the agreement, consent findings, and proposed Order.

§ 76.21 Discovery.

(a) The following types of discovery may be authorized:

(1) Requests for production of documents for inspection and copying;

(2) Requests for admission of the authenticity of any relevant document or of the truth of any relevant fact;

(3) Written interrogatories; and

(4) Depositions.

(b) For the purpose of this section and §§ 76.22 and 76.23 of this part, the term "documents" includes documents, reports, answers, records, accounts, papers, and other previously compiled data and documentary evidence. Nothing contained herein shall be interpreted to require the creation of a document.

(c) Unless mutually agreed to by the parties, discovery is available only as ordered by the Administrative Law Judge. The Administrative Law Judge shall regulate the timing of discovery.

(d) Motions for discovery are to be handled according to the following procedures.

(1) A party seeking discovery may file a motion with the Administrative Law Judge. Such a motion shall be accompanied by a copy of the requested discovery, or in the case of depositions, a summary of the scope of the proposed disposition.

(2) Within ten days of service, a party may file an opposition to the motion and/or a motion for a Protective Order as provided in 28 CFR 76.24.

(3) The Administrative Law Judge may grant a motion for discovery only upopn a finding that the discovery sought is necessary for the expeditious, fair, and reasonable consideratiopn of the issues; is not unduly costly or burdensome, will not unduly delay the proceeding; and does not seek privileged information.

(4) The burden in showing that discovery should be allowed is on the party seeking discovery.

(5) The Administrative Law Judge may grant discovery subject to a Protective Order under 28 CFR 76.24.

(e) Depositions are to be handled in the following manner:

(1) If a motion for deposition is granted, the Administrative Law Judge shall issue a subpoena for the deponent, which shall require the deponent to produce documents. The subpoena shall specify the time and place at which the deposition will be held.

(2) The party seeking to depose shall serve the subpoena in the manner prescribed in 28 CFR 76.23.

(3) Within ten days of service, the deponent may file with the Administrative Law Judge a motion to quash the subpoena or a motion for a protective Order.

(4) The party seeking the deposition shall provide for a verbatim transcript of the deposition, which shall be available to all parties for inspection and copying.

(f) Each party shall bear its own costs of discovery unless otherwise agreed by the parties.

§ 76.22 Exchange of witness lists, statements and exhibits.

(a) At least 15 days before the hearing or at such other time as may be ordered by the Administrative Law Judge, the parties shall exchange witness lists, copies of prior statements of proposed witnesses, and copies of proposed hearing exhibits, including copies of any written statements that the party intends to offer in lieu of live testimony in accordance with 28 CFR 76.22. At the time these documents are exchanged, any party that intends to rely on the transcript of deposition testimony in lieu of live testimony at the hearing, if permitted by the Administrative Law Judge, shall provide each party with a copy of the specific pages of the transcript it intends to introduce into evidence.

(b) If a party objects to admission, the Administrative Law Judge may not admit into evidence the testimony of any witness whose name does not appear on the witness list or any exhibit not provided to the opposing party as provided above unless the Administrative Law Judge finds good cause for the failure or that there is no prejudice to the objecting party.

(c) Unless another party objects within the time set by the Administrative Law Judge, documents exchanged in accordance with paragraph (a) of this section shall be deemed to be authentic for the purpose of admissibility at the hearing.

§ 76.23 Subpoenas for attendance at hearing.

(a) A party wishing to procure the appearance and testimony of any individual at the hearing may request that the Administrative Law Judge issue a subpoena.

(b) A subpoena requiring the attendance and testimony of an individual may also require the individual to procure documents at the hearing.

(c) A party seeking a subpoena shall file a written request therefor not less than 15 days before the dated fixed for the hearing unless otherwise allowed by the Administrative Law Judge upon a showing of good cause. Such request shall specify any documents to be produced and shall designate the witnesses and describe the address and location thereof with sufficient particularity to permit such witnesses to be found.

(d) The subpoena shall specify the time and place at which the witness is to appear and any documents the witness is to produce.

(e) The party seeking the subpoena shall serve it in the manner prescribed in 28 CFR 76.23. A subpoena on a party or upon an individual under the control of a party may be served by first class mail.

(f) A party or the individual to whom the subpoena is directed may file with the Administrative Law Judge a motion to quash the subpoena within ten days after service, or on or before the time specified in the subpoena for compliance if it is less than ten days after service.

§ 76.24 Protective order.

(a) A party or a prospective witness or deponent may seek to limit the availability or disclosure of evidence by filing a motion for a Protective Order with respect to discovery sought by an opposing party or with respect to the hearing.

(b) In issuing a Protective Order, the Administrative Law Judge may make an any Order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, including one or more of the following Orders:

(1) That the discovery not be had;
(2) That the discovery may be had only on specified terms and conditions, including a designation of the time or place;
(3) That the discovery may be had only through a method of discovery other than that requested;
(4) That certain matters not be the subject of inquiry, or that the scope of discovery be limited to certain matters;
(5) That discovery be conducted with no one present except persons designated by the Administrative Law Judge;
(6) That the contents of discovery or evidence be sealed;
(7) That a sealed deposition be opened only by Order of the Administrative Law Judge;
(8) That facts pertaining to any criminal investigation, proceeding, or other administrative investigation not be disclosed or be disclosed only in a designated way; or
(9) That the parties simultaneously file specified documents or information enclosed in sealed envelopes to be opened as directed by the Administrative Law Judge.

§ 76.25 Fees.

The party requesting a subpoena shall pay the cost of the fees and mileage of any witness subpoenaed. Such costs shall be in the amounts that would be payable to a witness in a proceeding in United States District Court. A check for witness fees and mileage shall accompany the subpoena when served, except that when a subpoena is issued on behalf of the complainant, a check for witness fees and mileage need not accompany the subpoena.

§ 76.26 Sanctions.

(a) The Administrative Law Judge may sanction a person, including any party or representative, for the following reasons:
(1) Failure to comply with an Order, Rule, or Procedure governing the proceeding;
(2) Failure to prosecute or defend an action; or
(3) Engaging in other misconduct that interferes with the speedy, orderly, or fair conduct of the proceeding.
(b) Any such sanction, including but not limited to those listed in paragraphs (c), (d), and (e) of this section, shall reasonably relate to the severity and nature of the failure or misconduct.
(c) When a party fails to comply with an Order, including an Order for taking a deposition, the production of evidence within the party's control, or a request for admission, the Administrative Law Judge may:
(1) Draw an inference in favor of the requesting party with regard to the information sought;
(2) In the case of requests for admission, deem each matter of which an admission is requested to be admitted;
(3) Prohibit the party failing to comply with such Order from introducing evidence concerning, or otherwise relying upon, testimony relating to the information sought; and
(4) Strike any part of the pleadings or other submissions of the party failing to comply with such request.
(d) If a party fails to prosecute or defend an action under this part commenced by service of a notice of hearing, the Administrative Law Judge may dismiss the action, without prejudice, or may issue an initial decision imposing penalties and assessments.
(e) The Administrative Law Judge may refuse to consider any motion, request, response, brief or other document which is not filed in a timely fashion.

§ 76.27 The hearing and burden of proof.

(a) The Administrative Law Judge shall conduct a hearing on the record in order to determine whether the respondent is liable for a civil penalty or assessment under 28 CFR 76.3 and, if so, the appropriate amount of any such civil penalty or assessment considering any aggravating or mitigating factors.
(b) The Attorney General shall prove respondent's liability and any aggravating factors by a preponderance of the evidence.
(c) The respondent shall prove any affirmative defenses and any mitigating factors by a preponderance of the evidence.
(d) The hearing shall be open to the public unless otherwise closed by the Administrative Law Judge for good cause shown.

§ 76.28 Location of hearing.

The hearing shall be held in the judicial district of the United States Attorney's Office which is the complainant in the case.

§ 76.29 Witnesses.

(a) Except as provided in paragraph (b) of this section, testimony at the hearing shall be given orally by witnesses under oath or affirmation.
(b) At the discretion of the Administrative Law Judge, testimony may be admitted in the form of a written statement or deposition. Any such written statement must be provided to all other parties along with the last known address of such witness, in a manner which allows sufficient time for other parties to subpoena such witness for cross-examination at the hearing. Prior written statements of witnesses proposed to testify at the hearing and deposition transcripts shall be exchanged as provided in 28 CFR 76.22.
(c) The Administrative Law Judge shall exercise reasonable control over the mode and order of interrogating witnesses and presenting evidence so as to—
(1) Make the interrogation and presentation effective for the ascertainment of the truth;
(2) Avoid needless consumption of time; and
(3) Protect witnesses from harassment or undue embarrassment.
(d) The Administrative Law Judge shall permit the parties to conduct such cross-examination as may be required for a full and true disclosure of the facts.
(e) At the discretion of the Administrative Law Judge, a witness may be cross-examined on matters relevant to the proceeding without regard to the scope of his or her direct examination. To the extent permitted by the Administrative Law Judge, cross-examination on matters outside the scope of direct examination shall be conducted in the manner of direct examination and may proceed by leading questions only if the witness is a hostile witness, an adverse party, or a witness identified with an adverse party.
(f) Upon motion of any party, the Administrative Law Judge shall order witnesses excluded so that they cannot hear the testimony of other witnesses. This rule does not authorize exclusion of the following:
(1) A party who is an individual; or
(2) An individual whose presence is shown by a party to be essential to the presentation of its case, including an individual employed by the Government engaged in assisting the representative for the Government.

§ 76.30 Evidence.

(a) The Administrative Law Judge shall determine the admissibility of evidence.
(b) Except as provided in this part, the Administrative Law Judge shall not be bound by the Federal Rules of Evidence. However, the Administrative Law Judge may apply the Federal Rules of Evidence where appropriate, e.g., to exclude unreliable evidence.
(c) The Administrative Law Judge shall exclude irrelevant and immaterial evidence.
(d) Although relevant, evidence may be excluded if its probative value is substantially outweighed by the danger

of unfair prejudice, confusion of the issues, or by considerations of undue delay or needless presentation of cumulative evidence.

(e) Relevant evidence may be excluded if it is privileged under Federal law.

(f) Grand jury-developed evidence may be used in these proceedings under Rule 6(e)(i)(3) (C)(i), Federal Rules of Criminal Procedure. See 18 U.S.C. 4.73, Notes of Committee on the Judiciary, Senate Report 95–354: "There is, however, no intent to preclude the use of grand jury-developed evidence for civil law enforcement purposes. On the contrary, there is no reason why such use is improper, assuming that the grand jury was utilized for the legitimate purpose of a criminal investigation."

(g) Evidence concerning offers of compromise or settlement shall be inadmissible to the extent provided in Rule 408 of the Federal Rules of Evidence.

(h) The Administrative Law Judge shall permit the parties to introduce rebuttal witnesses and evidence.

(i) All documents and other evidence offered or taken for the record shall be open to examination by all parties, unless otherwise ordered by the Administrative Law Judge pursuant to 28 CFR 76.27.

§ 76.31 Standards of conduct.

(a) All persons appearing in proceedings before an Administrative Law Judge are expected to act with integrity, and in an ethical manner.

(b) The Administrative Law Judge may exclude parties, witness, and their representatives for refusal to comply with directions, continued use of dilatory tactics, refusal to adhere to reasonable standards of orderly and ethical conduct, failure to act in good faith, or violation of the prohibition against ex parte communications. The Administrative Law Judge shall state in the record the cause for suspending or barring an attorney from participation in a particular proceeding. Any attorney so suspended or barred may appeal to the Attorney General but no proceeding shall be delayed or suspended pending disposition of the appeal; provided, however, that the Administrative Law Judge shall suspend the proceeding for a reasonable time for the purpose of enabling the party to obtain another attorney or representative.

§ 76.32 Hearing room conduct.

Proceedings shall be conducted in an orderly manner. The consumption of food or beverage, smoking, or rearranging of courtroom furniture, unless specifically authorize by the Administrative Law Judge, is prohibited.

§ 76.33 Legal assistance.

The Administrative Law Judge does not have authority to appoint counsel, nor can it refer parties to attorneys.

§ 76.34 Record of hearings.

(a) *General.* A verbatim written record of all hearings shall be kept. All evidence upon which the Administrative Law Judge relies for decision shall be contained in the transcript of testimony, either directly or by appropriate reference. All exhibits introduced as evidence shall be marked for identification and incorporated into the record. Transcripts may be obtained by the parties and the public from the official court reporter of record. Any fees in connection therewith shall be the responsibility of the parties.

(b) *Corrections.* Corrections to the official transcript will be permitted upon motion. Motions for correction must be submitted within ten (10) days of the receipt of the transcript, or such other time as may be permitted by the Administrative Law Judge. Corrections of the official transcript will be permitted only when errors of substance are involved and only upon approval of the Administrative Law Judge.

§ 76.35 Decision and Order of the Administrative Law Judge.

(a) *Proposed Decision and Order.* Within twenty (20) days of the filing of the transcript of the testimony, or such additional time as the Administrative Law Judge may allow, a party, if authorized by the Administrative Law Judge, may file proposed Findings of Fact, Conclusions of Law, and Order together with a supporting brief expressing the reasons for such proposals. Such proposals and brief shall be served on all parties, and shall refer to all portions of the record and to all authorities relied upon in support of each proposal.

(b) *Decision.* Within a reasonable time after the time allowed for the filing of the proposed Findings of Fact, Conclusions of Law, and Order, or within thirty (30) days after receipt of an agreement containing Consent Findings and Order disposing of the disputed matter in whole, the Administrative Law Judge shall make a decision. The Administrative Law Judge shall make a decision within forty-five (45) days after receipt of the hearing transcript or of post-hearing briefs, proposed Findings of Fact and Conclusions of Law, if any. The decision of the Administrative Law Judge shall include Findings of Fact, and Conclusions of Law upon each material issue of fact or law presented on the record. The decision of the Administrative Law Judge shall be based upon the whole record. It shall be supported by reliable and probative evidence. The standard of proof shall be a preponderance of the evidence. Such decision shall be in accordance with the regulations and rulings of the statute of regulations conferring jurisdiction. If the Administrative Law Judge fails to meet the deadline contained in this paragraph, he or she shall notify the parties and the Attorney General of the reason for the delay and shall set a new deadline.

(c) *Order.* If the Administrative Law Judge determines, by a preponderance of the evidence, that the respondent knowingly possessed a controlled substance that is listed in section 401(b)(1)(A) of the Controlled substances Act (21 U.S.C. 844(b)) in violation of section 404 of that Act in an amount that, as specified by these regulations, is a personal use amount, the Order may require the respondent to pay a civil penalty of not more than $10,000 for each violation. If the Administrative Law Judge determines, by a preponderance of the evidence, that the respondent did not knowingly possess a controlled substance as described in § 76.2(h), for his or her personal use, then the Order shall dismiss the complaint.

§ 76.36 Administrative and judicial review.

(a) Upon issuance of a Final Order by an Administrative Law Judge, a copy of the decision together with the record of proceedings will be forwarded to the Attorney General, who may conduct such review he or she deems appropriate. Any party may file with the Attorney General, within five (5) days of the date of the decision, a written request for review of any issue of law together with supporting arguments. No earlier than thirty (30) days from the date of decision, the Attorney General may issue an Order which adopts, affirms, modifies or vacates the Administrative Law Judge's order.

(b) If the Attorney General issues no Order, the Administrative Law Judge's Order becomes the final Order of the Attorney General. If the Attorney General modifies or vacates the Order, the Order of the Attorney General becomes the final Order.

(c) A person adversely affected by a Final Order respecting an assessment or penalty after a hearing may, before the expiration of the thirty (30) day period beginning on the date the Order is issued, either by the Attorney General or the Administrative Law Judge,

whichever is later, bring a civil action in the appropriate District Court of the United States. In such action, the law and the facts of the violation and the assessment of the civil penalty shall be determined *de novo*. The respondent shall have the right to a trial by jury, the right to counsel and the right to confront any witnesses. The facts of the violation shall be proved beyond a reasonable doubt.

§ 76.37 Collection of civil penalties and assessments.

(a) Collection of any penalty shall be the responsibility of the United States Attorney having jurisdiction over the matter.

(b) The United States Attorney having jurisdiction over the matter may commence a civil action in any appropriate District Court of the United States for the purpose of recovering the amount assessed and an amount representing interest at a rate computed in accordance with 28 U.S.C. 1961.

§ 76.38 Deposit in the United States Treasury.

All amounts collected pursuant to this part shall be deposited as miscellaneous receipts in the United States Treasury.

§ 76.39 Compromise or settlement after Decision and Order of Administrative Law Judge.

(a) The United States Attorney having jurisdiction over the case may, at any time before the Attorney General issues an Order, compromise, modify, or remit, with or without conditions, any civil penalty imposed under this section.

(b) Any compromise or settlement must be in writing.

§ 76.40 Records to be public.

All documents contained in the records of formal proceedings for imposing a penalty under this part may be inspected and copied, unless ordered sealed by the Administrative Law Judge.

§ 76.41 Expungement of records.

(a) The Attorney General shall expunge all official Department records created pursuant to this part upon application of a respondent at any time after the expiration of three (3) years from the date of the Final Order of assessment if:

(1) The respondent has not previously been assessed a civil penalty under this section;

(2) The respondent has paid the penalty;

(3) The respondent has complied with any conditions imposed by the Attorney General;

(4) The respondent has not been convicted of a Federal or State offense relating to a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802); and

(5) The respondent agrees to submit to a drug test, and such test shows the individual to be drug free.

(b) A non-public record of a disposition under this part shall be retained by the department solely for the purpose of determining in any subsequent proceeding whether the person qualifies for a civil penalty or expungement under this part.

(c) If a record is expunged under this part, the individual for whom such an expungement was made shall not be held guilty of perjury, false swearing, or making a false statement by reason of his failure to recite or acknowledge a proceeding under this part or the results thereof in response to an inquiry made of him for any purpose.

§ 76.42 Limitations.

No action under this part shall be entertained unless commenced within five years from the date on which the violation occurred.

Dated: November 29, 1989.

Dick Thornburgh,

Attorney General.

[FR Doc. 89-28951 Filed 12-12-89; 8:45 am]

BILLING CODE 4410-01-M

FEDERAL MARITIME COMMISSION

46 CFR Part 572

[Docket No. 89-23]

Agreements by Ocean Common Carriers and Other Persons Subject to the Shipping Act of 1984

AGENCY: Federal Maritime Commission.

ACTION: Availability of Finding of No Significant Impact.

SUMMARY: The Commission has completed an environmental assessment of a proposed rule in Docket No. 89-23 (54 FR 46273, Nov. 2, 1989) and found that its resolution of this proceeding will not have a significant impact on the quality of the human environment.

DATES: Petitions for review are due by December 26, 1989.

ADDRESSES: Petitions for review (Original and 15 copies) to: Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, DC 20573-0001

FOR FURTHER INFORMATION CONTACT: Edward R. Meyer, Office of Special Studies, 1100 L Street, NW., Washington, DC 20573-0001.

SUPPLEMENTARY INFORMATION: Upon completion of an environmental assessment, the Federal Maritime Commission's Office of Special Studies has determined that Docket No. 89-23 will not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. section 4321 et seq., and that preparation of an environmental impact statement is not required.

In Docket No. 89-23, the Commission proposes to remove the membership size limitation in its exemption of membership changes in certain passenger vessel operator agreements from the notice and waiting period requirements of section 6 of the Shipping Act of 1984 and the Information Form, notice and waiting period requirements of 46 CFR part 572. This will enable such membership changes to become effective upon filing with the Commission, regardless of the membership size of the involved agreement.

This Finding of No Significant Impact ("FONSI") will become final within 10 days of publication of this notice in the **Federal Register** unless a petition for review is filed pursuant to 46 CFR 504.6 (b).

The FONSI and related environmental assessment are available for inspection on request from the Office of the Secretary, Room 11101, Federal Maritime Commission, Washington, DC 20573-0001, telephone (202) 523-5725.

By the Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 89-29019 Filed 12-12-89; 8:45 am]

BILLING CODE 6730-01-M

Notices

Federal Register
Vol. 54, No. 238
Wednesday, December 13, 1989

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

December 8, 1989.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extentions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of P.L. 96–511 applies; (9) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, Room 404–W Admin. Bldg., Washington, DC 20250, (202) 447–2118.

Extension

- Food and Nutrition Service

Federal-State Special Supplemental Food Program Agreement
FNS–339
Annually
State or local governments; 86 responses; 44 hours; not applicable under 3504(h)
Laurie Hickerson, (703) 756–3710.

Revision

- Farmers Home Administration

7 CFR 1980–E, Business and Industrial Loan Program
FmHA 449–2, –4, –22, 1980–68, –70, –71, –73
Recordkeeping; On occasion; Quarterly
State or local governments; Businesses or other for-profit; Small businesses or organizations; 18,222 responses; 73,567 hours; not applicable under 3504(h)
Jack Holston, (202) 382–9736.

Larry K. Roberson,
Acting Departmental Clearance Officer.

[FR Doc. 89–29080 Filed 12–12–89; 8:45 am]
BILLING CODE 3410–01–M

Farmers Home Administration

Submission of Information Collection to OMB

AGENCY: Farmers Home Administration, USDA.

ACTION: Notice.

SUMMARY: The information collection requirement described below has been submitted to OMB for emergency clearance under 5 CFR 1320.18. The agency solicits comments on subject submission. This action is necessary in order to comply with the Disaster Assistance Act of 1989 (Pub. L. 101–82).

ADDRESSES: Interested persons are invited to submit comments regarding this submission. Comments should refer to the proposal by name and should be sent to: Lisa Grove, USDA Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Beverly I. Craver, FmHA Business and Industry Division, USDA Room 6327, South USDA Building, 14th and Independence Avenue SW., Washington, DC 20250, 202–475–3805.

SUPPLEMENTARY INFORMATION: The agency has submitted the proposal for collection of information as described below, to OMB for clearance as required by the Paperwork Reduction Act (44 U.S.C. chapter 35). It is requested that OMB approve this submission within seven days.

The supplemental supporting statement shown below delineates the revisions to 7 CFR part 1980, subpart E, Business and Industrial Loan Program.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3407.

Supplemental Supporting Statement

Amendments to 7 CFR part 1980, subpart E, implementing "Disaster Assistance for Rural Business Enterprises Guaranteed Loans."

FmHA is requesting OMB clearance of amendments to two forms being used to implement the Disaster Assistance for Rural Business Enterprises (DARBE) Guaranteed loan program. The proposed revisions to these forms will not increase the burden currently approved by OMB. The two forms being amended are as follows:

Form FmHA 1980–71, "Lender's Agreement—Disaster Assistance for Rural Business Enterprises Guaranteed Loans," is used to establish a contract between FmHA and the lender for DARBE Guaranteed Loans. The specific changes to Form FmHA 1980–71, are as follows:

1. Language has been added under the title of the form which informs the lender and the holder of the maximum loss payment.

2. Paragraph I has been revised to clarify the maximum loss payment under the DARBE guaranteed loan program.

3. Paragraph III A 3 b under Participations has been revised to remove the references to Farmer Program loans and Business and Industry Program loans and to add references to DARBE loans.

4. Paragraph IX C 10 under Lender's servicing responsibilities include, but are not limited to: has been revised to remove references to Farm Ownership, Soil and Water, and Operating loans.

5. Paragraph IX D has been removed as it does not apply to DARBE loans.

6. Paragraph X B has been revised to delete the last two sentences of the paragraph referencing Farmer Program loans.

7. Paragraph X C and D has been revised to clarify the maximum loss payment under the DARBE loan program.

8. Paragraph XI A 4 has been revised to replace references to the B&I program with references to the DARBE program. The second sentence of this paragraph has also been revised to remove the phrase "and all other loans regardless of the outstanding principal balance."

9. Paragraph XI F has been revised to remove references to loan subsidies and Farmer Program loans and to specify the

DARBE Loan Note Guarantee and make references to only allowable accrued interest.

10. The fourth sentence in paragraph XI G has been deleted since it does not apply to DARBE loans.

11. Paragraph XVII has been deleted because it refers to only Farmer Program loans and paragraph XVIII, XIX and XX have been renumbered accordingly.

Form FmHA 1980–73, "Assignment Guarantee Agreement—Disaster Assistance for Rural Business Enterprises Guaranteed Loans," is used to express the terms of the guarantee and the nature and limits of contractual conditions when a holder buys a guaranteed loan.

The specific changes to Form FmHA 1980–73 are as follows:

1. The title of the form has been revised to include the word "Enterprise" which was omitted in the previous revision.

2. Language has been added under the title of the form which informs the maximum loss payment to a Holder or Lender.

3. The ninth line in the body of the form has been revised to clarify the maximum loss payment to Holder.

4. The second paragraph of paragraph 2 under "Loan Servicing" has been revised to delete the reference to loan subsidy and the last sentence referring to 1980 Subpart H which does not apply to the DARBE loan program.

5. Paragraph 5 has language added to conform to language in the Loan Note Guarantee DARBE.

6. Paragraphs 7 and 8 have language added to clarify the maximum loss payments, and to remove the reference to loan subsidy in paragraph 8.

7. Paragraph 10 has been revised to remove to reference to loan subsidy and to clarify how the Lender's servicing fee will be paid.

Loans closed using the previous forms would have caused confusion to all parties involved in the loan. Specific limits relating to the maximum loss payment to a Lender or Holder under the DARBE Guaranteed loan program had to be established and clearly stated in the forms.

This rule is to be published as an interim rule with a 30 day comment period to follow publication. All comments received will be analyzed and considered in finalizing the regulation.

Dated: December 4, 1989.

Neal Sox Johnson,

Acting Administrator, Farmers Home Administration.

[FR Doc. 89–29079 Filed 12–12–89; 8:45 am]

BILLING CODE 3410-07-M

DEPARTMENT OF COMMERCE

International Trade Administration

Department of Commerce 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 (Pub. L. 89–651, 80 Stat. 897; 15 CFR 301). Related records can be viewed between 8:30 a.m. and 5 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: 89–064.

Applicant: U.S. Department of Commerce/NOAA, Research Triangle Park, NC 27711.

Instrument: Pulsed Wire Anemometer and Probe Support Unit.

Manufacturer: Pela Flow Instruments, Ltd., United Kingdom.

Intended Use: See notice at 54 FR 11992, March 23, 1989.

Reasons: The foreign instrument provides measurement of pollutants dispersed in highly turbulent or recirculating flow fields.

Docket Number: 89–182.

Applicant: Rutgers University, Piscataway, NJ 08854.

Instrument: Kelvin Probe.

Manufacturer: Delta Phi Elektronik, West Germany.

Intended Use: See notice at 54 FR 31722, August 1, 1989.

Reasons: The foreign article is an accessory allowing the measurement of the work function of material.

The capability of each of the foreign instruments described above is pertinent to each applicant's intended purposes. We know of no instrument or apparatus being manufactured in the United States which is of equivalent scientific value to either of the foreign instruments.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 89–29064 Filed 12–12–89; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Intent To Conduct a Public Meeting on the Preparation of a Draft Environmental Impact Statement and Draft Management Plan for Sites Which Comprise the Chesapeake Bay National Estuarine Research Reserve in Virginia

AGENCY: Office of Ocean and Coastal Resource Management, National Ocean Service, NOAA, Commerce.

ACTION: Notice of intent to conduct public meeting and prepare a draft environmental impact statement and draft management plan (DEIS/MP).

SUMMARY: In accordance with section 315 of the Coastal Zone Management Act of 1972 as amended, the Commonwealth of Virginia and the National Oceanic and Atmospheric Administration (NOAA) intend to conduct a public meeting to present the draft management plan for the Chesapeake Bay Estuarine Research Reserve in Virginia (CBNERR–VA) and to discuss significant issues related to the preparation of a draft environmental impact statement. The DEIS/MP addresses research, monitoring, education, and resource protection needs at four sites on the York River which comprise the first components of the CBNERR–VA. These sites are Goodwin Islands (representing polyhaline conditions at the mouth of the York River in York County), Catlett Islands (representing mesohaline conditions of the lower estuary of the York River in Gloucester County), Taskinas Creek (representing mesohaline to oligohaline conditions of the transition zone of the York River in James City County), and Sweet Hall Marsh (representing tidal freshwater conditions in the Pamunkey River, a tributary of the York River, in King William County).

Discussion: In May 1989, NOAA approved the nomination of Goodwin Islands, Catlett Islands, Taskinas Creek, and Sweet Hall Marsh as the first components of a multiple-site research reserve system in the Virginia portion of the Chesapeake Bay and its tributaries. Research reserves will provide natural coastal habitats as field laboratories for baseline ecological studies and education programs. Research and monitoring programs will be designed to enhance basic scientific understanding of coastal environments and aid in resource management decisionmaking. Information derived from sponsored studies will provide a basis for

measuring progress in Chesapeake Bay clean-up efforts and will be used to increase public awareness of coastal issues. The Virginia Institute of Marine Science (VIMS) has the lead role in developing and managing the reserve system.

VIMS has developed a draft management plan for the reserve system. The draft plan identifies specific needs and priorities related to research, monitoring, education, and resource protection at the approved sites. It also contains a five-year administration plan and budget as well as a discussion of volunteer programs, public access and visitor use policies, and facilities development needs. The draft plan will be available for review at the public meeting.

At the public meeting, VIMS and NOAA will provide a synopsis of the draft management plan and will solicit comments on significant socioeconomic and environmental issues which will be incorporated into a draft environmental impact statement.

The public meeting will be held on: Tuesday, December 12, 1989, at 7 p.m. in Waterman's Hall, Virginia Institute of Marine Science, Gloucester Point, Virginia.

Interested parties who wish to submit suggestions, comments, or substantive information regarding the scope or content of this proposed environmental impact statement are invited to attend. Parties who wish to respond in writing should do so by December 21, 1989. The DEIS will be prepared in compliance with the Council on Environmental Quality regulations (40 CFR section 1502.1–1502.25 (1988)).

Comments may be submitted in writing to Mr. Reed M. Bohne, Regional Manager, Marine and Estuarine Management Division, Office of Ocean and Coastal Resource Management, NOAA, 1825 Connecticut Avenue NW., Washington, DC 20235 (Telephone (202) 673–5122).

(Federal Domestic Assistance Catalog 11.419 Coastal Zone Management Estuarine Reserves)

Dated: December 4, 1989.

Virginia K. Tippie,

Assistant Administrator, National Ocean Service.

[FR Doc. 89–29014 Filed 12–12–89; 8:45 am]

BILLING CODE 3510–08–M

COMMISSION OF FINE ARTS

Cancellation of Meeting

The Commission of Fine Arts' meeting scheduled for 14 December 1989 is *cancelled.* Our next scheduled meeting is Thursday, 18 January 1990 at 10:00 AM in the Commission's offices at 708 Jackson Place NW., Washington, DC 20006 to discuss various projects affecting the appearance of Washington, DC, including buildings, memorials, parks, etc.; also matters of design referred by other agencies of the government. Handicapped persons should call the Commission offices (566–1066) for details concerning access to meetings.

Inquiries regarding the agenda and requests to submit written or oral statements should be addressed to Charles H. Atherton, Secretary, Commission of Fine Arts, at the above address or call the above number.

Dated in Washington, DC 5 December 1989.

Charles H. Atherton,

Secretary.

[FR Doc. 89–29056 Filed 12–12–89; 8:45 am]

BILLING CODE 6330–01–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of an Import Limit for Certain Cotton, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in India

December 7, 1989.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs increasing a limit.

EFFECTIVE DATE: December 8, 1989.

FOR FURTHER INFORMATION CONTACT: Jennifer Tallarico, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 343–6494. For information on embargoes and quota re-openings, call (202) 377–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limit for Group II is being increased for special carryforward.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 53 FR 44937, published on November 7, 1988). Also see 54 FR 50071, published on December 13, 1988.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

December 7, 1989.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229

Dear Commissioner: This directive amends, but does not cancel, the directive of December 8, 1988, as amended, from the Chairman, Committee for the Implementation of Textile Agreements. That directive establishes restraint limits for certain cotton, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in India and exported during the twelve-month period which began on January 1, 1989 and extends through December 31, 1989.

Effective on December 8, 1989, you are directed to amend further the December 8, 1988 directive to increase the current limit for Group II, as provided under the terms of the current bilateral textile agreement between the Governments of the United States and India:

Category Group II	Adjusted twelve-month limit [1]
200, 201, 220–229, 237, 239, 300/301, 317, 326, 330–334, 345, 349–352, 359–362, 369–0 [2], 369–S [3], 600–607, 611–635, 638–652, 659, 665pt. [4], 666–670 and 831–859, as a group.	117,617,030 square meters equivalent

[1] The limit has not been adjusted to account for any imports exported after December 31, 1988.

[2] In Category 369–0, all HTS numbers except 6307.10.2005 in Category 369–S; 6302.60.0010, 6302.91.0005 and 6302.91.0045 in Category 369–D; and rugs exempt from the bilateral agreement in HTS numbers 5702.10.9020, 5702.49.1010 and 5702.99.1010.

[3] In Category 369–S, only HTS number 6307.10.2005.

[4] In Category 665pt., all HTS numbers except rugs exempt from the bilateral agreement in HTS numbers 5702.10.9030, 5702.42.2010, 5702.92.0010 and 5703.20.1000.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 89-29065 Filed 12-12-89; 8:45 am]

BILLING CODE 3510-DR-M

Announcement of Import Limits and Guaranteed Access Levels for Certain Cotton, Wool, Man-Made Fiber and Other Vegetable Fiber Textiles and Textile Products from Jamaica

December 6, 1989.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits and guaranteed access levels for the new agreement year.

EFFECTIVE DATE: January 1, 1990.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce (202) 377-4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 566-5810. For information on embargoes and quota re-openings, call (202) 377-3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

A copy of the current bilateral agreement between the Governments of the United States and Jamaica is available from the Textiles Division, Bureau of Economic and Business Affairs, U.S. Department of State, (202) 647-1998.

A description of the textile and apparel categories in terms of HTS numbers is available in the Correlation: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 53 FR 44937, published on November 7, 1988).

Requirements for participation in the Special Access Program are available in **Federal Register** notices 51 FR 21208, published on June 11, 1986; 52 FR 26057, published on July 10, 1987; 53 FR 22202, published on June 14, 1988; and 54 FR 50425, published on December 6, 1989.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

December 6, 1989.

Commissioner of Customs

Department of the Treasury, Washington, D.C. 20229

Dear Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as further extended on July 31, 1986; pursuant to the bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 27, 1986, as amended, between the governments of the United States and Jamaica; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on January 1, 1990, entry into the United States for consumption or withdrawal from warehouse for consumption of cotton, wool, man-made fiber and other vegetable fiber textiles and textile products in the following categories, produced or manufactured in Jamaica and exported during the twelve-month period which begins on January 1, 1990 and extends through December 31, 1990, in excess of the following designated levels:

Category	Twelve-Month Restraint Level
331/631	350,000 dozen pairs.
336/636	98,000 dozen.
338/339/638/639.	780,902 dozen.
340/640	365,170 dozen of which not more than 308,990 dozen shall be in shirts made from fabrics with two or more colors in the warp and/or the filling in Categories 340-Y/640-Y—(only HTS numbers 6205.20.2015, 6205.20.2020, 6205.20.2046, 6205.20.2050, 6205.20.2060, 6205.30.2010, 6205.30.2020, 6205.30.2050 and 6205.30.2060).
341/641	458,541 dozen.
342/642	175,000 dozen.
345/845	113,147 dozen.
347/348/647/648.	842,885 dozen.
349/649	500,000 dozen.
352/652	300,000 dozen.
445/446	48,424 dozen.
447	10,000 dozen.
632	100,000 dozen pairs.

Imports charged to these category limits for the period January 1, 1989 through December 31, 1989 shall be charged against the levels of restraint to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this directive.

The limits set forth above are subject to adjustment in the future according to the provisions of the current bilateral agreement between the Governments of the United States and Jamaica.

In accordance with the provisions of the Special Access Program, as set forth in 51 FR 21208 (June 11, 1986), 52 FR 26057 (July 10, 1987) and 54 FR 50425 (December 6, 1989), you are directed to establish guaranteed access levels for properly certified cotton, man-made fiber and other vegetable fiber textile products in the categories listed below. These products shall be assembled in Jamaica from fabric formed and cut in the United States and exported to the United States from Jamaica during the twelve-month period which begins on January 1, 1990 and extends through December 31, 1990.

Category	Guaranteed Access Level
331/631	1,320,000 dozen pairs.
336/636	125,000 dozen.
338/339/638/639.	1,500,000 dozen.
340/640	300,000 dozen.
341/641	375,000 dozen.
342/642	200,000 dozen.
345/845	50,000 dozen.
347/348/647/648.	2,000,000 dozen.
349/649	2,200,000 dozen.
352/652	1,550,000 dozen.
447	30,000 dozen.
632	3,000,000 dozen pairs.

Any shipment for entry under the special Access Program which is not accompanied by a valid and correct certification and Export Declaration in accordance with the provisions of the certification requirements established in the directive of February 19, 1987 shall be denied entry unless the government of Jamaica authorizes the entry and any charges to the appropriate designated consultation levels or specific limits. Any shipment for entry under the special Access Program which is found not to qualify for the special Access Program may be denied entry into the United States.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth or Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisons of 5 U.S.C. 553(a)(1).

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 89-29066 Filed 12-12-89; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Department of the Army

Record of Decision; Proposed Actions at U.S. Army Kwajalein Atoll

Introduction

Pursuant to Council on Environmental Quality regulations implementing the National Environmental Policy Act, this document records the U.S. Army decision to implement proposed actions at U.S. Army Kwajalein Atoll (USAKA).

USAKA has served as a Department of Defense (DOD) Major Range and Test Facility since the late 1950's. The Proposed Action is to provide test range facilities and support services at USAKA for continuing research, development, operational missions, operational space tracking missions, and Strategic Defense Initiative (SDI) activities.

The Strategic Defense Initiative Organization (SDIO) needs to conduct Demonstration/Validation and technology development testing to support the acquisition of a Strategic Defense System. In 1987, environmental assessments (EAs) were prepared to support the decision to move six strategic defense technologies from concept exploration (Milestone 0) to Demonstration/Validation (Milestone 1) in the DOD major weapon systems acquisition process. The EAs revealed the potential for cumulative impacts at USAKA from three of the technologies: Exoatmospheric Reentry-vehicle Interceptor Sub-system (ERIS); Ground Based Surveillance and Tracking System (GSTS); and Space Based Interceptor (SBI). Findings of no significant cumulative impacts were issued for the Demonstration/Validation testing conducted in the United States; however, based on the potential for significant cumulative impacts at USAKA, SDIO and the Army decided to prepare an environmental impact statement (EIS) for the testing at USAKA.

An EIS was prepared with the U.S. Army Strategic Defense Command (USASDC), parent command for USAKA, acting as lead agency. The SDIO and the U.S. Army Corps of Engineers served as cooperating agencies for the EIS, which was completed in October 1989. The SDIO has issued its own Record of Decision which covers the SDI testing to be conducted at USAKA and closes out the environmental impact analysis process that began with the 1987 EAs. The SDIO Record of Decision is incorporated by reference as part of this document.

Based on the findings of the EIS, a mitigation plan has been developed which, when fully executed, will avoid or reduce to insignificant levels negative environmental impacts resulting from implementation of the Proposed Action. Moreover, these mitigation efforts will also reduce the negative environmental effects found to result from ongoing activities at USAKA. The U.S. Army is firmly committed to full execution of this mitigation plan which is summarized in this document and incorporated by reference.

Alternatives

The USAKA EIS considers three alternatives: No-Action; Proposed Action; and Change of Duration. The No-Action Alternative involves the continuation of USAKA mission activities. It includes missile launches for test flights, meteorological data gathering, radar calibration, the sensing and tracking of incoming reentry vehicles for DOD test programs, and space surveillance. Test programs are supported by radar and optical sensing equipment, telemetry, communications, and other technical range support facilities. Base operations include all the activities required to support a community of almost 3,000 people in an isolated location—transportation, utilities, housing, community support, maintenance, and repair services.

The Proposed Action consists of SDI and non-SDI activities planned to be conducted at USAKA. The proposed SDI testing includes the launch of target and interceptor missiles from Meck, Omelek, and Roi-Namur Islands, covering Demonstration/Validation tests associated with ERIS, GSTS, and SBI. In addition, it encompasses experiments associated with the concept development of the Ground Based Radar (GBR), the High Endoatmospheric Defense Interceptor system (HEDI), and the Airborne Optical Adjunct (AOA). It also analyzes technology development efforts associated with the Aerothermal Reentry Experiment, the Exoatmospheric Discrimination Experiment, the High Altitude Learjet Observatory and Infrared Instrumentation System, the Mid-Course Sensors Experiment, the Optical Aircraft Measurement Program, Project Cardinal, and the Strategic Target System.

Non-SDI activities, other than the on going activities, proposed for USAKA are the construction on Kwajalein Island of a desalination plant and family housing and on Roi-Namur Island a sewage treatment plant and a document control facility.

The Change of Duration Alternative differs from the Proposed Action in that testing of two SDI activities would be delayed, one for two years (GBR) and one for five years (HEDI). This alternative would have the effect of decreasing the number of SDI personnel at USAKA, thereby potentially lessening the stresses on the environment related to population increase.

Two alternatives which were rejected early in the process due to their unreasonableness were in the reduction of the level of activities at USAKA and the relocation of the USAKA mission to another place. I concur with the rejection of these alternatives for the reasons stated in the EIS. Primarily, I reject them because implementation of either of these alternatives would delay SDI and non-SDI activities as well as ongoing missions at USAKA or preclude them. Given the national security priority to demonstrate the feasibility of Strategic Defense, reduction or relocation of USAKA operations would be inconsistent with this national goal.

Impacts/Mitigations

The EIS reveals that most of the significant negative impacts which exist at USAKA are as a result of the ongoing mission activities and are not specifically related to SDI or non-SDI activities planned at USAKA. Thus, the vast majority of negative impacts flow from the No-Action Alternative and not from the Proposed Action or Change in Duration Alternatives. Nonetheless, because of the existing detrimental environmental conditions, SDI and non-SDI activities, whether associated with the Proposed Action or Change in Duration Alternatives, would exacerbate these already negative conditions. The EIS process has determined that significant negative impacts are occurring or will occur if either the Proposed Action or Change in Duration Alternatives are chosen in the following areas: groundwater quality; marine water quality; air quality; island flora; marine biological resources; rare species; archeological, cultural, or historical resources; housing; wastewater treatment; solid and hazardous waste handling; and drinking water.

All practical means to avoid or minimize environmental harm from the Proposed Action have been adopted. Additionally, inasmuch as the Proposed Action exacerbates ongoing activities, the Army will correct existing environmental deficiencies as a part of the overall mitigation plan. Some mitigations take the form of studies to fully define the extent of the problem and allow the mitigation to be tailored to the increase effectiveness. In

addition, these studies may result in revealing additional mitigative measures which would be required. These additional requirements will be adequately addressed as they arise in consultation with United States Environmental Protection Agency (USEPA) and the Republic of the Marshall Islands (RMI). Standards used to develop mitigations in the mitigation plan and in this Record of Decision are based upon standards substantively similar to U.S. standards; however, alternative standards which are fully protective of health, safety, and the environment will be developed in consultation with the RMI and USEPA as envisioned in section 161 of the Compact of Free Association (48 U.S.C. 1681), the governing environmental protection obligation for United States activities in the RMI. These alternate standards may affect the ultimate mitigations implemented under this Record of Decision. The mitigation plan details all impacts and mitigation measures identified in the EIS; impacts and mitigation measures for the Proposed Action are summarized below.

a. *Freshwater.* Demands on the Kwajalein groundwater lens would jeopardize its availability as a source of fresh drinking water, particularly during drought periods. The potential to overpump the groundwater lens would increase the potential for temporary groundwater quality degradation because of saltwater infiltration. Mission activities proposed for USAKA would increase the risk of contamination or lens wells because of current hazardous materials and waste handling practices at USAKA. A desalination plant on Kwajalein will be installed to mitigate the increased demands on the groundwater lens system. Improved hazardous materials and waste handling procedures will be implemented to minimize the potential for contamination. The USEPA Primary Drinking Water Standards will be implemented as a basis for contaminant monitoring.

b. *Marine Water Quality.* Impacts on marine water quality—because of existing solid and hazardous waste management practices, treated sewage effluent at Kwajalein, untreated sewage effluent at Roi-Namur, dredging, and quarrying—will all increase as a result of the higher population and level of activities. Mitigations that will minimize impacts that result from sewage, solid waste, and hazardous waste are described below in their respective sections. Monitoring for heavy metals, hydrocarbons, bacteria, nutrients, tissue metals concentrations, sediment heavy metals concentration; bioassay tests; and, if necessary, bioaccumulation tests for crabs and other organisms will be conducted.

c. *Air Quality.* The increase in solid waste burning and power plant operations will exacerbate the existing exceedances of air quality standards. The new power plant on Kwajalein Island may contribute to air quality standard exceedances. A review of the new power plant design under New Source Review criteria will be conducted for the compliance with best available control technology (BACT). Air quality impacts will be mitigated as necessary by additional air quality controls, reduced power plant operation or increases in stack heights, and the installation of a solid waste incinerator with air pollution controls. Additionally, an ambient air quality study will be conducted and the results used to develop a baseline for the particular environment of the RMI.

d. *Island Flora.* Construction of a missile launch facility on Omelek Island, depending on where it is finally sited, could require the removal of parts of one of Omelek's three stands of native trees. Careful siting of the proposed facilities will be used to reduce the number of trees that will have to be removed. Threes that must be removed will be transplanted to other locations. Also, the use of any chemicals will be controlled through hazardous material handling and waste control measures to avoid impacts to vegetation.

e. *Marine Biological Resources.* Increased quarrying and dredging will produce short-term, localized, insignificant impacts. The sewage treatment plant which will be built on Roi-Namur Island will reduce impacts to marine life from untreated sewage effluent. To minimize shoreline erosion, quarries will be sited at least 100 feet from the outer reef edge. Harbor improvements at Omelek Island could cause a localized impact to the rich coral biota near the existing jetty. This impact will be mitigated through careful site planning and construction practices. In the vicinity of ecologically important areas such as the Omelek harbor area, dredging operations will include the use of silt curtains to prevent the movement of turbidity and suspended sediments over valuable coral reef areas and/or the use of a turbidity control standard. The standard will be established to allow dredging operations to continue provided that turbidity is not elevated 10 NTU above background levels within an established zone of mixing. Silt curtains deployed around the dredge site will serve to reduce the zone of mixing distance and allow dredging to occur adjacent to valuable ecological areas.

f. *Rare, Threatened, or Endangered Species.* Increased operations could put additional pressure on rare giant clams (T. *gigas*) and seagrass beds. To mitigate this, USAKA will issue a regulation that will be based on RMI Environmental Protection Authority regulations, as they are issued, prohibiting the taking of T. *gigas.* Giant clams will be transported from areas where they might be damaged by USAKA activities.

g. *Archaeological/Cultural/Historical.* The proposed construction of a launch facility on Omelek Island could disturb subsurface archaeological resources. Depending on final siting and on construction practices, proposed construction at Kwajalein Island and Roi-Namur Island could disturb subsurface historical resources. Increased population and activity on those islands could have an impact on these same resources. Ground-disturbing activities will be planned so that known sites of archaeological, cultural, or historical resources will be protected. Preconstruction sampling of the Omelek Island site will determine their extent, nature, and significance. If the proposed facilities cannot be located to avoid a significant site entirely, a preconstruction data recovery program will be used under the supervision of a qualified archaeologist. Archaeological monitoring with systematic sampling as necessary will accompany construction of the facilities at Kwajalein Island and Roi-Namur Island, delineated in the EIS. An educational program explaining the significance and importance of the historical resources will be instituted to deter damage to the resource.

h. *Socioeconomic Conditions.* The nonindigenous population at USAKA is expected to increase over the current figure of 2,972 (1988), but will not exceed the historical maximum. The population will increase by 403 in 1992–1993, but in 1994 this will decrease to 315 (excluding temporary construction workers). A shortage of family housing units is predicted for the Proposed Action, even after the construction of 130 new family housing units. Therefore, the use of substandard trailers will continue. The amount of suitable unaccompanied personnel housing is also projected to be deficient. USAKA has requested the construction of 400 units of unaccompanied personnel housing.

Other than the beneficial impacts in terms of increased tax revenues, no impacts were identified affecting the citizens of the RMI.

i. *Utilities.* In the area of Utilities, because impacts are so dependent on

population growth, a large number of negative impacts were identified and are listed below accompanied by their associated mitigations.

(1) Drinking Water—Increased demands on the Kwajalein Island freshwater supply that would result from a larger population will exacerbate both the supply and water quality problems identified for the No-Action Alternative. The desalination plant construction will mitigate these impacts.

(2) Waste Water—Increase demands on the wastewater treatment system at Kwajalein Island could result in periodic discharges of excessive suspended solids exceeding primary treatment criteria. Water conservation, additional biological treatment capacity, and an additional clarifier will mitigate predicted impacts on the Kwajalein Island wastewater management system if further analysis shows a decrease in treatment effectiveness. The construction of a new sewage treatment plant on Roi-Namur Island will eliminate the discharge of untreated sewage.

(3) Solid Waste—The increase in population and activity at USAKA will exacerbate already inadequate solid waste management practices. Impacts will be mitigated by constructing facilities and instituting practices that will ensure acceptable disposal. New facilities will include an incinerator and sufficient improvements to the existing landfill to meet accepted standards. The identified adverse impacts of municipal solid waste practices will be mitigated by upgrading the design, construction, and operation of the existing open dump to landfill standards and by installing a municipal waste incinerator. Landfilling of untreated sewage sludge and septic tank pumpings has ceased and will be prohibited. The identified impacts on fresh water and marine water from solid waste handling practices will be mitigated by modifying the construction and operation of the landfill to meet appropriate standards. A hydrogeological study will be conducted; the volume, physical, and chemical characteristics of the leachate will be determined; and the existing quality of the ground water will be assessed.

(4) Hazardous Waste—The increase in population and activity will also exacerbate adverse impacts from hazardous materials and waste handling practices. Impacts will be mitigated by constructing new facilities and instituting new procedures. New facilities will include storage, an industrial furnace, and an acid neutralization unit. Impacts in the area of hazardous waste stem primarily from deficiencies in treatment, storage, and disposal practices.

Inadequate disposal practices for spent batteries will be corrected. Spent batteries will be drained, the acid neutralized, and the sludge disposed of as hazardous waste. Empty battery casings will be shipped to appropriate recycling facilities.

The identified adverse impacts of current waste oil disposal practices will be mitigated through replacement of the current unlined burn pits with an industrial incinerator. The burn pits will be closed and all hazardous material and contaminated soil disposed of. Solvent wastes will be segregated from waste oil and improved tracking and recordkeeping will be implemented. Collection, storage, transportation, and disposal practices that comply with hazardous waste generator management standards will be implemented.

The identified impacts of current petroleum products and solvents storage and use will be mitigated by upgrading the design and construction of the berm walls and floors in above ground storage locations, by complying with the technical requirements for underground storage tanks, and by upgrading the design and construction of hazardous material storage and dispensing areas. Pertinent design and operations considerations will include containment requirements, compatibility of hazardous materials with construction materials, and recordkeeping and inspections requirements.

Identified impacts from existing sandblasting activities will be mitigated by conducting testing to determine contaminant levels and requiring future sandblasting to be conducted in an area that provides containment and that prevents dispersion. Used grit will be tested and disposed of by regulation as dictated by its degree of hazardousness.

(5) Asbestos—Identified potential impacts from asbestos will be mitigated by conducting surveys to determine where facilities containing asbestos exist. Friable asbestos will be wetted, removed, bagged, and shipped to an approved disposal site in accordance with Occupational Health and Safety and USEPA policy. No on site burial of asbestos will be allowed.

(6) PCBs—In addition to storage and disposal of the transformers and oils containing PCBs, remediation of contamination in building 1500 will be in accordance with regulations under the Toxic Substance Control Act (TSCA). Disposal of PCB material will be by a licensed contrastor on the U.S. mainland.

Decision

The analysis in the EIS reveals that the No-Action Alternative is the environmentally preferred alternative. This is mainly due to the small increment of environmental harm which could occur if the Proposed Action or the Change in Duration Alternatives were implemented in addition to the harm being caused by ongoing activities. I am convinced that the mitigations chosen by the Army, in conjunction with those of which SDIO has informed me, will avoid or reduce to insignificant levels all impacts from ongoing activities and either of the action alternatives. Further, there appears to be no environmentally beneficial reason to select the Change in Duration Alternative over the Proposed Action, since the increment of environmental harm between the two alternatives is small and because the steps to mitigate any impacts from the Change in Duration Alternative are also more than adequate to mitigate any impacts from the Proposed Action.

The Director of SDIO, in his Record of Decision on the USAKA EIS has determined that there are excellent economic and technical reasons for selecting the Proposed Action over the Change in Duration Alternative. First, any delay in the development of the GBR and HEDI programs will necessitate an increase in the cost of developing those technologies. This is mainly due to the inflationary factor which must be applied to funding of these programs two to five years hence. Second, the risk of bringing highly complex, interactive technologies into the inventory is reduced the more the testing is integrated. In the case of GBR, for example, it is advantageous to integrate the radar with tests of GSTS and ERIS. Opportunities for simultaneous testing would be lost if the GBR is delayed for two years. Moreover, delay of the HEDI test for five years would have an impact on the integration of terminal defense tests with those in the exoatmospheric environment during the midcourse phase of a ballistic missile flight.

The Director of SDIO has also concluded that there are strong national policy reasons for the selection of the Proposed Action over the No-Action and Change of Duration Alternatives. The President has directed SDIO to develop sufficient information upon which to demonstrate the feasibility of a Strategic Defense System. In order to accomplish this direction, SDIO must conduct Demonstration/Validation and technology development tests of SDI

elements within the timeframe and according to the parameters set out in the Proposed Action. No other course of action will allow the U.S. to support the feasibility decision or to prove the military effectiveness of the system. The schedule and testing program as described in the Proposed Action must be met in order to satisfy the requirements of the user as validated by the Joint Chiefs of Staff and approved by the Secretary of Defense.

Finally, the Director of SDIO has determined the Proposed Action would accomplish a crucial step in the testing of SDI elements, following the schedule established to assure the viability of an option for the timely development of a Strategic Defense System. Although the Change of Duration Alternative would also support the option to develop a Strategic Defense System, the delay of two significant test programs could compromise the timely development of such a system as a major element of the nation's defense forces.

As to the non-SDI activities contained in the Proposed Action which include desalination plant and family housing on Kwajalein Island and a sewage treatment plant and the document control facility on Roi-Namur Island, there are important environmental, technical, and national policy reasons to support their implementation. The desalination plant, family housing, and sewage treatment plant are also planned mitigations which are designed to offset significant negative impacts from the population growth associated with the Proposed Action. The document control facility is critical for maintaining security. It has almost no impact upon the environment and its primary purpose is to control classified documents essential to the national defense.

The Director of SDIO, in his Record of Decision, decided to go forward with the SDI testing planned to be conducted at USAKA based upon the EIS and the implementation of certain mitigation measures. As the agency responsible for the range where testing will occur and after reviewing the EIS, the SDIO decision, and considering in detail all of the environmental, technical, and national defense implications, I have decided that the Army will implement the Proposed Action as described in the EIS. Specifically, the Army will allow SDI testing at USAKA. I also approve the proposed non-SDI activities to be carried out at USAKA. As a condition of permitting the implementation, the Army will implement all mitigations detailed in the mitigation plan incorporated by reference as part of this document. This includes mitigations to lessen the impact of planned SDIO testing and non-SDI activities as well as mitigations to bring ongoing activities up to standard.

Monitoring/Enforcement

The extent and complexity of the mitigation which is part of this decision mandates a monitoring program. The program will ensure both enforcement and effectiveness of the stated mitigation measures to ensure compliance with all environmental standards and controls applicable to USAKA. In this regard, the RMI has endorsed the EIS and the mitigations addressed therein with the understanding that alternate standards will be developed as envisioned by the Compact of Free Association. Toward that end USASDC will initiate and have lead responsibility in developing alternate standards in consultation with the RMI, USEPA and the Department of State.

USASDC will have overall responsibility for implementation of the mitigation plan, development of alternate standards, and for implementation of the monitoring program, subject to review by my office. Cooperating agencies for this EIS will be called upon to assist in mitigation implementation and in mitigation monitoring, as appropriate. The Army will provide all necessary resources to execute the mitigation plan.

Enforcement monitoring will include review of all efforts to be performed at USAKA to include all proposed contracts involving test activities at USAKA to ensure that those efforts contain appropriate contract provisions consistent with planned mitigation and to ensure that the U.S. protects the environment of the RMI. Funding of planned activities will be made contingent upon the review. In addition, the SDIO and the U.S. Army Corps of Engineers will coordinate planned contract actions involving USAKA with the USASDC Environmental office. All of these reviews will be accomplished early in the acquisition process.

Effectiveness monitoring will be established with the assistance of the Army Environmental Hygiene Agency. Monitoring plans will be developed for appropriate mitigation actions prior to collection of baseline data. Monitoring results of relevant mitigations will be made available to cooperating or commenting agencies and to the public upon request. Routine reporting to SDIO on the status and results of mitigation actions made a part of the SDIO Record of Decision will be accomplished annually.

Dated: December 5, 1989.

Susan Livingstone,

Assistant Secretary of the Army (Installations, Logistics and Environment).

[FR Doc. 89-29006 Filed 12-12-89; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Federal Acquisition Regulation (FAR); Information Collection Under OMB Review

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirements concerning Bid Labeling Requirements.

ADDRESS: Send comments to Ms. Eyvette Flynn, FAR Desk Officer, OMB, room 3235, NEOB, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Mr. John L. O'Neill, Office of Federal Acquisition Policy, GSA (202) 523-3856 or Mr. Owen Green, Defense Acquisition Regulatory Council, (703) 697-7268.

SUPPLEMENTARY INFORMATION: a. *Purpose:* Sealed bidding is a method of contracting that employs competitive bids, public opening of bids, and awards. In order to safeguard the content of bids, bidders must submit sealed bids addressed to the office specified in the solicitation and showing the time specified for receipt, the solicitation number, and the name and address of the bidder.

The information is required to assure the package is properly safeguarded and is not opened prior to the specified time.

b. *Annual reporting burden:* The annual reporting burden is estimated as follows: Respondents, *18,690;* responses per respondent, *50;* total annual responses, *934,500;* hours per response, *.017;* and total response burden hours, *15,886.*

OBTAINING COPIES OF PROPOSALS: Requester may obtain copies from General Services Administration, FAR Secretariat (VRS),

Room 4041, Washington, DC 20405, telephone (202) 523–4755. Please cite OMB Control No. 9000–0042, Bid Labeling Requirements.

Dated: December 6, 1989.

Margaret A. Willis,

FAR Secretariat.

[FR Doc. 89–29053 Filed 12–12–89; 8:45 am]

BILLING CODE 6820–JC–M

Federal Acquisition Regulation (FAR); Information Collection Under OMB Review

AGENCY: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirements regarding Type of Business.

ADDRESS: Send comments to Ms. Eyvette Flynn, FAR Desk Officer, OMB, room 3235, NEOB, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Mr. John L. O'Neill, Office of Federal Acquisition Policy, GSA (202) 523–3856 or Mr. Owen Green, Defense Acquisition Regulatory Council, (703) 697–7268.

SUPPLEMENTARY INFORMATION: a. *Purpose:* Firms proposing to provide supplies or services to the Government must indicate their type of business to ensure that any subsequent contracts contain the proper provisions and clauses.

This information is used by the Government in preparation of the contract and is then placed in the contract file and becomes a matter of record.

b. *Annual reporting burden:* The annual reporting burden is estimated as follows: Respondents, *79,397;* responses per respondent, *14;* total annual responses, *1,111,558;* hours per response, *.07;* and total response burden hours, *77,810.*

OBTAINING COPIES OF PROPOSALS: Requester may obtain copies from General Services Administration, FAR Secretariat (VRS), Room 4041, Washington, DC 20405, telephone (202) 523–4755. Please cite OMB Control No. 9000–0046, Type of Business.

Dated: December 6, 1989.

Margaret A. Willis,

FAR Secretariat.

[FR Doc. 89–29054 Filed 12–12–89; 8:45 am]

BILLING CODE 6820–JC–M

Federal Acquisition Regulation (FAR); Information Collection Under OMB Review

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirements concerning Bid/Offer Acceptance Period.

ADDRESS: Send comments to Ms. Eyvette Flynn, FAR Desk Officer, OMB, room 3235, NEOB, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Mr. John L. O'Neill, Office of Federal Acquisition Policy, GSA (202) 523–3856 or Mr. Owen Green, Defense Acquisition Regulatory Council, (703) 697–7268.

SUPPLEMENTARY INFORMATION: a. *Purpose:* Bid acceptance period is the period of time from receipt of bids that is available to the Government to award the contract. This acceptance period is normally established by the Government. However, the bidder may establish a longer acceptance period than the minimum acceptance period set by the Government by filling in the blank. There are instances when the Government is unable to award a contract within the acceptance period due to unforeseen complications. Rather than incur the costly expense of readvertising, the Government requests the bidders to extend their bids for a longer period of time.

These data are placed with the respective bids and placed in the contract file to become a matter of record.

b. *Annual reporting burden:* The annual reporting burden is estimated as follows: Respondents, *3,220;* responses per respondent, *40;* total annual responses, *128,800;* hours per response, *.017;* and total response burden hours, *2,190.*

OBTAINING COPIES OF PROPOSALS: Requester may obtain copies from General Services Administration, FAR Secretariat (VRS), Room 4041, Washington, DC 20405, telephone (202) 523–4755. Please cite OMB Control No. 9000–0044, Bid/Offer Acceptance Period.

Dated: December 6, 1989.

Margaret A. Willis,

FAR Secretariat.

[FR Doc. 89–29055 Filed 12–12–89; 8:45 am]

BILLING CODE 6820–JC–M

DEPARTMENT OF EDUCATION

Announcement of Effective Dates

AGENCY: Department of Education.

ACTION: Notice of effective dates.

SUMMARY: Section 431(d) of the General Education Provisions Act requires that most Department of Education regulatory documents be published in the **Federal Register** for forty-five (45) calendar days, or longer, if Congress takes certain adjournments, before they take effect. Since future congressional adjournments cannot be predicted with certainty when a document is published, the Department cannot announce a specific effective date at the time of publication. This notice announces the effective dates for certain regulatory documents subject to the delayed effective date requirement of Section 431(d).

DATES: For effective dates, see **"SUPPLEMENTARY INFORMATION."**

FOR FURTHER INFORMATION CONTACT: Kenneth C. Depew, Acting Director, Division of Regulations Management, Office of the General Counsel, Department of Education, Room 2131, FOB–6, 400 Maryland Avenue, Office of the General Counsel, Department of Education, Room 2131, FOB–6, 400 Maryland Avenue, SW., Washington, DC 20202–2241. Telephone: (202) 732–2887.

SUPPLEMENTARY INFORMATION: The effective date provision for each of the regulatory documents included in this notice stated that the effective date would be announced in a notice published in the **Federal Register.**

Accordingly, this notice announces the following effective dates:

1. Notice of final funding priority for the Cooperative Demonstration Program, published June 8, 1989 (54 FR 24644).

Date: Effective date: July 23, 1989.

2. Notice of final funding priorities for the Rehabilitation Training Program, published June 9, 1989 (54 FR 24876).

Date: Effective date: July 24, 1989.

3. Notice of final funding priorities for the Special Project and Demonstrations for Providing Vocational Rehabilitation Services to Individuals With Severe Handicaps, published July 3, 1989 (54 FR 27978).

Date: Effective date: September 4, 1989.

4. Notice of final funding priority for the Talent Search Program, published July 18, 1989 (54 FR 30190).

Date: Effective date: September 4, 1989.

5. Notice of applicability of regulations for the Kuhry Bequest Program, published September 8, 1989 (54 FR 37406).

Date: Effective date: October 23, 1989.

6. Notice of final funding priorities for certain new Office of Special Education and Rehabilitative Services direct grant awards published on September 14, 1989 (54 FR 38160).

Date: Effective date: October 29, 1989.

7. Notice of final funding priorities for the Chapter 1—Migrant Education Coordination Program for State Educational Agencies, published on September 15, 1989 (54 FR 38350).

Date: Effective date: October 30, 1989.

(20 U.S.C. 1232(d))

Dated: December 7, 1989.

Edward C. Stringer,

General Counsel.

[FR Doc. 89-29040 Filed 12-12-89; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP85-169-046]

CNG Transmission Corp.; Notice of Refund Proposal

December 6, 1989

Take notice that on November 28, 1989, CNG Transmission Corporation (CNG) filed a refund proposal in compliance with the Commission's orders on the reserved GSS issue dated May 2 and October 10, 1989.

CNG's proposed distributed of the principal is as follows:

(1) The initial escrow fund of $3,747,245 per year was detemined pursuant to the Stipulation and Agreement in this proceeding. The escrow fund was later increased to $6,679,436 annually to account for the change in the federal income tax rate;

(2) A monthly amount was calculated and allocated to each customer receiving GSS service in that month by the ratio of its contract capacity to the total of all contract capacity for that month.

CNG states that the interest amount shown on the workpapers was computed in accordance with the Commission's regulations through November 9, 1989. Once the Commission has approved CNG's proposed distribution of the escrow fund the interest calculation will be updated, the monies distributed to the GSS customers, and a full refund report made to the Commission.

CNG states that copies of this filing are being mailed to all parties.

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 918 CFR 385.214, 385.211 (1989)). All such protests should be filed on or before December 13, 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. 89-29038 Filed 12-12-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM90-5-21-000]

Columbia Gas Transmission Corp.; Notice of Proposed Changes in FERC Gas Tariff

December 6, 1989.

Take notice that Columbia Gas Transmission Corporation (Columbia) on November 30, 1989, tendered for filing the following proposed changes to its FERC Gas Tariff, Original Volume No. 1, to be effective December 1, 1989:

Twenty-fifth Revised Sheet No. 16B
Fifteenth Revised Sheet No. 16B1
Fifteenth Revised Sheet No. 16B2
Original Sheet No. 16B6
Original Sheet No. 16B7
Original Sheet No. 16B8
Original Sheet No. 16B9
Original Sheet No. 16B10
Original Sheet No. 16B11
Original Sheet No. 16B12

Columbia states that the foregoing tariff sheets modify and supplement Columbia's previous filings in Docket Nos. RP-187, *et al.*, in which Columbia established procedures pursuant to Order No. 500 to recover from its customers the take-or-pay and contract reformation costs billed to Columbia by its pipeline suppliers. Specifically, Columbia proposes to modify its earlier filings in Docket Nos. RP90-26 and TM90-2-21 to permit it to flow through revised take-or-pay and contract reformation costs from (i) Texas Eastern Transmission Corporation (Texas Eastern) pursuant to a filing made on October 11, 1989 which was accepted by the Federal Energy Regulatory Commission's (Commission) order issued on November 9, 1989 in Docket No. TM89-12-17; (ii) Panhandle Eastern Pipe Line Company (Panhandle) pursuant to a filing made on October 12, 1989 which was accepted by Commission's order issued on November 9, 1989 in Docket No. TM90-5-28, and (iii) Panhandle pursuant to a filing made on October 12, 1989 which was accepted by Commission's order issued on November 9, 1989 in Docket No. TM90-6-28.

Copies of the filing were served upon Columbia's jurisdictional customers, interested state commissions, and upon each person designated on the official service list compiled by the Commission's Secretary in Docket Nos. RP88-187, RP89-181, RP89-214, RP89-229, TM89-3-21, TM89-4-21, TM89-5-21, TM89-7-21, RP90-26 and TM90-2-21.

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, Union Center Plaza Building, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before December 13, 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 proceedings. Any person wishing to become a party must file a motion to intervene. Copies of Columbia's filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-29032 Filed 12-12-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TQ90-1-45-001]

Inter-City Minnesota Pipelines Ltd., Inc.; Notice of Tariff Filing

December 6, 1989.

Take notice that on December 1, 1989, Inter-City Minnesota Pipelines, Ltd., Inc. ("Inter-City"), 245 Yorkland Boulevard, North York, Ontario, Canada M2J 1R1, tendered for filing a revised tariff sheet to Original Volume 1 of its FERC Gas Tariff to be effective December 1, 1989.

Original Volume No. 1

Substitute Third Revised Sheet No. 61-B

Inter-City states that Substituted Third Revised Sheet No. 61-B reflects Correction to Third Revised Sheet No. 61-B filed on November 21, 1989.

Inter-City states that copies of the filing have been mailed to all of its customers and the affected state regulatory commission.

Any persons desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, Washington, DC 20426, in accordance Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before December 13, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-29034 Filed 12-12-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP90-50-000 and TM90-4-37-000]

Northwest Pipline Corp., Notice of Proposed Change in FERC Gas Tariff

December 6, 1989.

Take notice that on November 30, 1989, Northwest Pipeline Corporation ("Northwest") tendered for filing and acceptance the following tariff sheets:

Primary Tariff Sheets

First Revised Volume No. 1

Fifty-Eighth Revised Sheet No. 10
Thirty-Second Revised Sheet No. 10-A
Fourth Revised Sheet No. 12

Original Volume No. 1-A

Twenty-Second Revised Sheet No. 201

Original Volume No. 2

Twelfth Revised Sheet No. 2.3

Alternate Tariff Sheets

First Revised Volume No. 1

Alternate Fifty-Eighth Revised Sheet No. 10
Alternate Thirty-Second Revised Sheet No. 10-A
Fourth Revised Sheet No. 12

Original Volume No. 1-A

Alternate Twenty-Second Revised Sheet No. 201

Original Volume No. 2

Alternate Twelfth Revised Sheet No. 2.3

Northwest states that the purpose of this filing is to update its Commodity SSP Charge and Fixed Monthly SSP Charge, effective January 1, 1990, to (1) reflect interest applicable to October, November and December 1989, (2) the amortization of principal and interest for the months of July, August and September 1989, and (3) to reflect the inclusion of additional SSP Costs that have been incurred since Northwest's last quarterly filing. The proposed revised Commodity SSP Charge reflected in the primary tariff sheets is 3.77 cents per MMBtu, while the alternate tariff sheets reflect a proposed Commodity SSP Charge of 3.75 cents per MMBtu. The primary tariff sheets include carrying charges on four additional supplier settlements from the date of payment to the respective producers, while the alternate tariff sheets include carrying charges associated with the aforementioned settlements commencing January 1, 1990 which is the proposed effective date for the alternate and primary tariff sheets listed above.

Northwest states that a copy of this filing has been sent to all parties of record in Docket No. RP89-137 and to all jurisdictional customers and affected state regulatory commissions.

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 D.C. 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 December 13, 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. 89-29033 Filed 12-12-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA90-1-41-002]

Paiute Pipeline Co.; Notice of Compliance Filing

December 6, 1989.

Take notice that on November 30, 1989, Paiute Pipeline Company (Paiute) tendered for filing Second Substitute Eleventh Revised Sheet No. 10 applicable to its FERC Gas Tariff, Original Volume No. 1, in compliance with the Commission's Order issued October 31, 1989 in Docket Nos. TA90-1-41-000 and TA90-1-41-001.

Paiute states that the Commission's October 31, 1989 Order accepted for filing effective November 1, 1989 Substitute Eleventh Revised Sheet No. 10 reflecting Paiute's annual purchased gas adjustment (PGA) filing, subject to certain conditions set forth in the Commission's Order. Paiute was directed to revise its PCA filing or provide additional information concerning six specific areas identified in the Commission's Order. Paiute was further directed to respond to or supply additional information concerning certain issues raised in the protest and intervention filed by Sierra Pacific Power Company.

In response to the Commission's Order, Paiute filed a revised tariff sheet and the requested supplemental information. Paiute noted in its compliance filing that the combined effect of all the revisions and corrections made did not change Paiute's Account No. 191 balance or the proposed effective sales tariff rate set forth in Paiute's original and first substitute PBA filings.

Paiute states that copies of this filing have been mailed to all parties of record and interested state commissions in the above-captioned proceeding.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20425 in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before December 13, 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 petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-29035 Filed 12-12-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP89-38-004, RP89-99-004]

U-T Offshore System; Notice of Compliance Filing

December 6, 1989.

Take notice that on November 29, 1989, U-T Offshore System (U-TOS) filed certain revised tariff sheets to its FERC Gas Tariff, First Revised Volume No. 1, to be effective December 29, 1989.

U-TOS states that in compliance with the Commissioner's order of October 17, 1989, this filing reflects additional justification for changes made to its previous filing.

U-TOS states that copies of this filing are being mailed to all parties in these consolidated proceedings and Staff.

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 (1989)]. All such protests should be filed on or before December 13, 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. 89-29036 Filed 12-12-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP83-137-030, et al.]

Transcontinental Gas Pipe Line Corp., et al.; Filing of Pipeline Refund Reports

December 6, 1989.

Take notice that the pipeline listed in the Appendix hereto have submitted to the Commission for filing proposed refund reports. The date of filing and docket number are also shown on the Appendix.

Any person wishing to do so may submit comments in writing concerning the subject refund reports. All such comments should be filed with or mailed to the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426, on or before December 27, 1989. Copies of the respective filings are on file with the Commission and available for public inspection.

Lois D. Cashell

Secretary.

APPENDIX

Filing Date	Company	Docket No.
Oct. 19, 1989	Transcontinental Gas Pipe Line Corporation.	RP83-137-030
Oct. 26, 1989	Alabama-Tennessee Natural Gas Company.	CP86-509-001
Oct. 27, 1989	Paiute Pipeline Company.	RP72-121-011
Oct. 27, 1989	Transcontinental Gas Pipe Line Corporation.	TQ89-4-29-005
Oct. 31, 1989	Natural Gas Pipeline Company of America.	RP88-209-023
Nov. 6, 1989	Algonquin Gas Transmission Company.	RP86-41-006
Nov. 8, 1989	Questar Pipeline Company.	RP88-93-009
Nov. 24, 1989	Northwest Pipeline Corporation.	TA88-4-37-012

[FR Doc. 89-29039 Filed 12-12-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-238-001]

The Washington Water Power Co.; Notice of Filing

December 6, 1989.

Take notice that on November 29, 1989, the Washington Water Power Company (Water Power) filed Second Revised Sheet No. 6 to its FERC Gas Tariff, Original Volume No. 2, to be effective October 15, 1989.

Water Power states that this tariff sheets reflects the lower annual and monthly charges to B.C. Gas and otherwise resolves concerns expressed by Staff during the technical conference held on November 27, 1989. Water Power requests that the previously tendered tariff sheet filed on September 15, 1989 be replaced with the tariff sheet filed November 29, 1989.

Any person desiring to protect said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure [18 CFR 385.214, 385.211 (1989)]. All such protests should be filed on or before December 13, 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. 89-29037 Filed 12-12-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-199-001 and RP90-13-001]

Algonquin Gas Transmission Co.; Proposed Change in FERC Gas Tariff

December 6, 1989.

Take notice that Algonquin Gas Transmission Company ("Algonquin") on December 1, 1989, tendered for filing, to its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets:

Proposed to be effective, October 16, 1989

Substitute Fourth Revised Sheet No. 629
Second Substitute Second Revised Sheet No. 630

Algonquin states that on June 26, 1989 in Docket No. RP89-199-000 Algonquin filed a request for a waiver of the Commission's regulations as necessary to allow inclusion of standby charges from its suppliers in the Purchased Gas Adjustment ("PGA") calculation (section 17 of the General Terms and Conditions). Algonquin further detailed its request in a subsequent filing made on October 17, 1989 in Docket No. RP90-13-000 to include those standby charges incurred as a result Algonquin's restructuring of its service contracts with Texas Eastern Transmission Corporation ("Texas Eastern"). Specifically, Algonquin requested authority to track Texas Eastern's standby charges incurred as a result of Algonquin converting from service under Texas Eastern's Rate Schedules DCQ and GS to Rate Schedules CD-1 and CD-2.

Algonquin further states that through a Letter Order issued on November 16, 1989 the Commission accepted Algonquin's revised Section 17 language and granted Algonquin authority to track standby charges incurred as a result of Algonquin's conversion from firm sales service to standby service on Texas Eastern's system. Such acceptance was conditional upon

Algonquin filing revised tariff language within fifteen (15) days of the issuance of the Commission's Letter Order, clarifying that standby charges are not purchased gas costs and that such charges may be tracked as part of its PGA filings provided such charges are stated as a separately identified component of its rates on an as-billed basis.

Furthermore, Algonquin maintains that it is filing Substitute Fourth Revised Sheet No. 629 and Second Substitute Second Revised Sheet No. 630 to comply with the conditions of acceptance as set forth in the Commission's Letter Order.

Algonquin notes that a copy of this filing was served upon each affected party and interested state commission.

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 December 13, 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. 89-29028 Filed 12-12-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP90-54-000]

ANR Pipeline Co.; Proposed Changes in FERC Gas Tariff

December 6, 1989.

Take notice that ANR Pipeline Company ("ANR"), on December 1, 1989, tendered for filing, as part of its Original Volume No. 1 of its FERC Gas Tariff, six copies each of the following sheets:

Substitute Twenty-Fourth Revised Sheet No. 18.
Substitute Twenty-Fifth Revised Sheet No. 18.
Substitute Twenty-Sixth Revised Sheet No. 18.
Third Revised Sheet No. 87.
Fifth Revised Sheet No. 88.
Fifth Revised Sheet No. 89.
Fifth Revised Sheet No. 90.
Fourth Revised Sheet No. 90A.
First Revised Sheet No. 90A.1.
First Revised Sheet No. 90B.
Original Sheet No. 128.
Original Sheet No. 129.

ANR states that the above-referenced tariff sheets are being filed in order to effectuate the relief requested in the "Supplemental Request For Cost Recovery Of ANR Pipeline Company", filed on November 13, 1989 in Docket Nos. RP89-45, RP89-127, RP89-193 and RP90-18, and including Docket No. RP90-46: collection of most of the buyout buydown costs involved in such dockets by direct charges to ANR's sales customers. ANR has presented the direct charges to be collected from its sales customers on three bases, depending upon whether the tariff sheets filed herein become effective on December 1, 1989, or January 1, 1990, or June 1, 1990. ANR has requested that December 1, 1989 be selected as the effective date.

ANR states that copies of the filing were served upon each of ANR's customers, and 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 Commission, 825 North Capitol Street, NE., Washington, DC 20426 by December 13, 1989, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). 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 application are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-29029 Filed 12-12-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP90-53-000]

ANR Pipeline Co.; Proposed Changes in FERC Gas Tariff

December 6, 1989.

Take notice that on December 1, 1989, pursuant to section 4 of the Natural Gas Act and part 154 of the Federal Energy Regulatory Commission's ("Commission") Regulations thereunder, ANR Pipeline Company ("ANR") tendered for filing with the Commission Sixth Revised Sheet No. 570 of its FERC Gas Tariff, Original Volume No. 2 with an effective date of January 1, 1990.

Sixth Revised Sheet No. 570 reflects a decrease of $3,671 in the monthly charge paid by the High Island Offshore System ("HIOS") to ANR pursuant to Rate Schedule X-64 under Original Volume No. 2 of ANR's FERC Gas Tariff. Rate Schedule X-64 is a Service Agreement dated August 4, 1977 between ANR and HIOS. Under the terms of this Service Agreement, which was approved by Commission Order issued July 6, 1978 at Docket No. CP78-134, ANR provides certain gas measurement, dehydration and related services for HIOS at the Grand Chenier, Louisiana facility.

Any person desiring to be heard or to protest said filing should file a motion to intervene or to protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 29426, in accordance with Rule 211 or Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before December 13, 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 to the proceeding 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. 89-29030 Filed 12-12-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP89-213-004, RP89-75-006]

Black Marlin Pipeline Co.; Filing

December 6, 1989.

Take Notice that on November 30, 1989, Black Marlin Pipeline Company (Black Marlin) tendered for filing to become a part of Black Marlin's FERC Gas Tariff, Original Volume No. 1, the following tariff sheets:

Substitute 2nd Revised Sheet No. 105
Substitute 1st Revised Sheet No. 110
5th Revised Sheet No. 121
5th Revised Sheet No. 125

Black Marlin has submitted the listed tariff sheets in compliance with the Commission's November 15, 1989 Order in the referenced docket to clarify applicability of service under Rate Schedules FTS and ITS and delete reference to fuel reimbursement under Rate Schedules FTS/OCS and ITS/OCS.

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 the Commission's Rules of Practice and Procedure (18 CFR 385.214). All such protests should be filed on or before December 13, 1989. Protests will be

considered by the Commission in determining the appropriate action to be taken, but will 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. 89-29031 Filed 12-12-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP86-168-018]

Columbia Gas Transmission Corp.; Correction to Filing

December 6, 1989.

Take notice that on November 30, 1989, Columbia Gas Transmission Corporation (Columbia) filed certain revised tariff sheets to its FERC Gas Tariff, Original Volume No. 1, to be effective November 1, 1989.

Columbia states that these tariff sheets are filed to administratively correct certain clerical errors in its compliance filing of November 20, 1989. It states that the tariff sheets correct the PGA surcharge amounts for certain services, correct the retainage percentage for company-use and unaccounted-for (fuel) quantities applicable to transportation services, and correct the price cap negative surcharge amounts for the Commonwealth Customers.

Columbia states that copies of this filing are being mailed to its jurisdictional customers, wholesale customers and interested State Commissions, and all parties on the official service list.

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 (1989)). All such protests should be filed on or before December 13, 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. 89-29024 Filed 12-12-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP89-1121-002 and RP90-17-000]

Mississippi River Transmission Corp; Tariff Filing

December 6, 1989

Take notice that on November 22, 1989, Mississippi River Transmission Corporation (MRT) submitted for filing the below listed tariff sheets to its FERC Gas Tariff, Second Revised Volume No. 1. These tariff sheets reflect a December 1, 1989 proposed effective date.

Second Substitute Thirty-Sixth Revised Sheet No. 4
Second Alternate Substitute Thirty-Sixth Revised Sheet No. 4

MRT states that on October 23, 1989, it filed certain revised tariff sheets to its FERC Gas Tariff, Second Revised Volume No. 1, in compliance with a FERC Order dated September 18, 1989 in the captioned proceeding. MRT later determined that Substitute Thirty-Sixth Revised Sheet No. 4 filed therewith did not reflect a reduction in the D-2 rate component of the Base Tariff Rate approved by the Commission in its September 18, 1989 order. As a result of this error, the Demand Charge D-2 under Rate Schedule CD-1 and the single part rates under Rate Schedule SGS-1 and PI-1 were overstated by approximately 1.2¢. The tariff sheets submitted in the instant filing reflect the D-2 rate reduction.

MRT requests waiver of the notice provisions of its tariff and the Commission's Regulations to permit the tariff sheets contained in the instant filing to be placed in effect December 1, 1989 in lieu of those previously submitted.

MRT states that copies of its filing have been served upon all of MRT's jurisdictional customers and state commissions, as well as on all parties reflected on the Commission's Official Service List in Docket No. CP89-1121-000.

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 §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before December 13, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-29025 Filed 12-12-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP88-191-016, RP90-48-000]

Tennessee Gas Pipeline Co.

December 6, 1989.

Take notice that on November 30, 1989 Tennessee Gas Pipeline Company (Tennessee) filed the following tariff sheets to Second Revised Volume No. 1 of its FERC Gas Tariff:

Third Revised Sheet Nos. 40, 42 and 44
Substitute Third Revised Sheet Nos. 41 and 43
Third Revised Sheet No. 245A

Revised Sheets Nos. 40 through 44 are filed in accord with the terms of the Stipulation and Agreement (October 14, 1987) in Tennessee Gas Pipeline Company, Docket No. RP86-119 (42 FERC ¶ 61,175, order on reh'g, 43 FERC ¶ 61,329 (1988)) and Article XXX of the General Terms and Conditions of Tennessee's Tariff. The Take-or-Pay Demand Rate Surcharge reflected on these sheets is based on fifty percent of the non-affiliate, non-recoupable take-or-pay and contract reformation costs (TOP Costs) paid by Tennessee on or before November 30, 1989. Revised Sheet Nos. 40 through 44 are proposed to be effective January 1, 1990.

Tennessee states that it is submitting Third Revised Sheet No. 245A in order to revise the terms of its take-or-pay recovery procedure consistent with *American Gas Association, et al.* v. *FERC*, No. 87-1588 (DC Circuit, October 16, 1989). Accordingly, Tennessee has eliminated the "sunset" provisions limiting Tennessee's recovery of costs to TOP Costs incurred or known and measurable as of March 31, 1989. Tennessee requests that the Commission accept Revised Sheet No. 245A to be effective November 30, 1989.

Tennessee respectfully requests that the Commission grant any waivers it deems necessary for the acceptance of this filing.

Tennessee states that copies of the filing have been mailed to all parties in

this proceeding, affected customers and affected 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 Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before December 13, 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, with the exception of Schedule 1 of the workpapers, and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-29026 Filed 12-12-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP87-7-062]

Transcontinental Gas Pipe Line Corp.; Compliance Tariff Filing

December 6, 1989.

Take notice that Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing on November 30, 1989 revised tariff sheets to Second Revised Volume No. 1 and Original Volume No. 2 of its FERC Gas Tariff, which tariff sheets are included in Appendix A attached to the filing. The proposed effective dates of the revised tariff sheets are indicated in Appendix A.

The Commission's "Order Approving Contested Offer of Settlement" dated April 19, 1989 in Docket No. RP87-7-034 approved without modification the Stipulation and Agreement As To Pension Fund Issues ("Agreement") filed by Transco on April 25, 1988, in Docket No. RP87-7-012. The purpose of the instant filing is to revise Transco's sales, transportation, and storage rates to reflect a $3.4 million net annual cost of service increase in accordance with Article II of the Agreement and the Commission's April 19, 1989 Order. The $3.4 million net annual cost of service increase consists of: (1) a $6.0 million annual increase attributable to certain Transco employee benefit plans and (2) a $2.6 million annual reduction due to the elimination of Transco's Thrift Plan costs. Appendix B contains supporting schedules, which detail by service classification, the allocated net cost of service increase and the unit rate effect of such increase.

Transco states that copies of the instant filing are being mailed to customers, State Commissions and interested parties. In accordance with provisions of Section 154.16 of the Commission's Regulations, copies of this filing are available for public inspection, during regular business hours, in a convenient form and place at Transco's main offices at 2800 Post Oak Boulevard in Houston, Texas.

Any person desiring to protest said filing should file a 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 protests should be filed on or before December 13, 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. 89-29027 Filed 12-12-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM90-6-20-000]

Algonquin Gas Transmission Co.; Proposed Change in FERC Gas Tariff

December 7, 1989.

Take notice that Algonquin Gas Transmission Company ("Algonquin") on December 1, 1989, tendered for filing, to its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets:

Proposed To Be Effective January 1, 1990

Thirty-eighth Revised Sheet No. 201
Thirty-ninth Revised Sheet No. 203
Thirty-fifth Revised Sheet No. 204
Thirty-second Revised Sheet No. 205
Eighth Revised Sheet No. 223
Eighth Revised Sheet No. 224
Thirteenth Revised Sheet No. 324

Algonquin states that the Commission, through Opinion No. 334 found that the R&D funding unit for the calendar year 1990 of 1.26¢ per MMBtu to be just and reasonable and shall be collected by jurisdictional members of GRI from January 1, 1990 through December 31, 1990 without regard to purchased gas adjustment clause effective dates. Accordingly, Algonquin states that it is filing the revised tariff sheets, as listed above, to incorporate said GRI funding unit into the applicable Rate Schedules.

Algonquin further states that pursuant to § 154.310(c)(5)(iii) ("Transition Rules") of the Commission's PGA regulations, it is removing the current surcharge rate of negative 0.62¢ per MMBtu at the end of the Transition Rules mandated 10 month amortization period due to end on December 31, 1990.

The net effect of the GRI adjustment is to decrease the commodity charge by 0.20¢ per MMBtu, in Rate Schedules F-1, WS-1, I-1, E-1, I-2, F-2, F-3, F-4, AFT-1, AIT-1 while the removal of the Surcharge will increase the commodity charge under Rate Schedules F-1, WS-1, I-1 and E-1 by 0.62¢ per MMBtu.

Algonquin notes that a copy of this filing was served upon each affected party and interested state commission.

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 sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before December 14, 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. 89-29089 Filed 12-12-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM90-2-70-000]

Columbia Gulf Transmission Co.; Proposed Changes in FERC Gas Tariff

December 7, 1989.

Take notice that Columbia Gulf Transmission Company (Columbia Gulf), on November 30, 1989, tendered for filing the following substitute revised tariff sheet to its FERC Gas Tariff, Original Volume No. 1, with the proposed effective date of January 1, 1990:

Second Substitute Seventh Revised Sheet No. 5A

This revised tariff sheet is submitted to reflect the Gas Research Institute (GRI) funding unit of 1.26¢ per Dth as authorized by Opinion No. 334 issued by the Federal Energy Regulatory Commission (Commission) on October 10, 1989 in Docket No. RP89-187-000.

Ordering Paragraph (B) of the Commission's Opinion approves the GRI funding requirement for the year 1990 and provides that members of GRI shall collect from their applicable customers, a general R&D funding unit of 1.26¢ per Dth during 1990 for payment to GRI.

Copies of the filing were served upon the Company's jurisdictional customers and interested state 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 Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before December 14, 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 Columbia Gulf's filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-29096 Filed 12-12-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM90-2-2-000]

East Tennessee Natural Gas Co.; Rate Filing Pursuant to Tariff Rate Adjustment Provisions

December 7, 1989.

Take notice that on December 1, 1989, East Tennessee Natural Gas Company (East Tennessee) filed First Revised Sheet No. 5A to its FERC Gas Tariff to be effective January 1, 1990.

East Tennessee states that the purpose of this filing is to flow through the fourth demand surcharge implemented by Tennessee Gas Pipeline Company in Docket No. RP88-191 effective January 1, 1990. East Tennessee is flowing these charges to its customers pursuant to Article 30 of its FERC gas tariff, which was accepted by order of the Commission on July 28, 1988.

East Tennessee states that copies of the filing have been mailed to all of its jurisdictional customers and affected 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 Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before December 14, 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; provided, however, that any person who had previously filed a motion to intervene in this proceeding is not required to file a further motion. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-29097 Filed 12-12-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM90-1-5-000]

Midwestern Gas Transmission Co.; Rate Filing Pursuant to Tariff Rate Adjustment Provisions

December 7, 1989.

Take notice that on December 1, 1989, Midwestern Gas Transmission Company (Midwestern) filed Original Sheet No. 7 to First Revised Volume 1 of its FERC Gas Tariff to be effective January 1, 1990.

Midwestern states that the purpose of this filing is to flow through the fourth demand surcharge implemented by Tennessee Gas Pipeline Company in Docket No. RP88-191 effective January 1, 1990. Midwestern is flowing these charges to its customers pursuant to Article 24 of its FERC Gas Tariff.

Midwestern states that copies of the filing have been mailed to all of its jurisdictional customers and affected 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 Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before December 14, 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; provided, however, that any person who had previously filed a motion to intervene in this proceeding is not required to file a further motion. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-29090 Filed 12-12-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM90-3-25-000]

Mississippi River Transmission Corp.;

December 7, 1989.

Take notice that on December 1, 1989 Mississippi River Transmission Corporation (MRT) submitted for filing the following tariff sheets to its FERC Gas Tariff, Second Revised Volume No. 1 and Original Volume No. 1-A, containing a proposed effective date of January 1, 1990:

Second Revised Volume No. 1

Thirty-Eight Revised Sheet No. 4
Seventh Revised Sheet No. 4B.

Original Volume 1-A

First Revised Sheet No. 2.
First Revised Sheet No. 3.

MRT states that the revised tariff sheets are being submitted to reflect a decrease in the Gas Research Institute (GRI) surcharge to 1.26 cents per MMBtu effective January 1, 1990 in accordance with the Commission's Opinion No. 334, issued on October 10, 1989 at Docket No. RP87-187-000.

MRT also states that copies of its filing have been served upon all of its jurisdictional customers and interested state 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 §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before December 14, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-29098 Filed 12-12-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM90-5-37-000]

Northwest Pipeline Corp.; Proposed Change in Sales Rates Pursuant to Purchased Gas Cost Adjustment

December 7, 1989.

Take notice that on December 1, 1989, Northwest Pipeline Corporation ("Northwest") submitted for filing a proposed change in rates applicable to service rendered under rate schedules affected by and subject to Article 16, Purchased Gas Cost Adjustment Provision ("PGA"), of its FERC Gas Tariff First Revised Volume No. 1. Such change in rates is for the purpose of reflecting changes in Northwest's estimated cost of purchased gas for the three months ending March 31, 1990.

The current PGA adjustment, for which notice is given herein, aggregates to a decrease of 6.12¢ per MMBtu in the commodity rate for all rate schedules affected by and subject to the PGA. The proposed change in Northwest's commodity rates for the first quarter of 1990 would decrease sales revenues by approximately $1,138,565. The instant filing also provides for an increase in the demand components of Northwest's gas sales rates and revised D-1 and D-2 billing determinants to reflect the proposed realignment in Northwest's service obligation effective October 1, 1989. The reduction in the GRI funding unit to 1.26¢ per MMBtu which was approved by Opinion No. 334 (October 10, 1989) in Docket No. RP89-187-000 is also reflected herein. Sheet No. 10 (Volume No. 1) and Sheet No. 201 (Volume No. 1-A) are filed in the alternative to reflect the SSP surcharge in a manner consistent with Northwest's quarterly Order No. 500 update which was filed November 30, 1989.

Northwest hereby tenders the following tariff sheets to be effective January 1, 1990:

Primary Tariff Sheets

First Revised Volume No. 1

Fifty-Ninth Revised Sheet No. 10
Eighth Revised Sheet No. 303

Original Volume No. 1-A

Twenty-Third Revised Sheet No. 201

Original Volume No. 2

Eighth Revised Sheet No. 2.2

Alternate Tariff Sheets

First Revised Volume No. 1

Alternate Fifty-Ninth Revised Sheet No. 10

Original Volume No. 1-A

Alternate Twenty-Third Revised Sheet No. 201

A copy of this filing is being served on Northwest's jurisdictional customers and affected state commissions.

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 December 14, 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. 89-29091 Filed 12-12-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM90-9-28-000]

Panhandle Eastern Pipe Line Co.; Proposed Changes in FERC Gas Tariff

December 7, 1989.

Take notice that on December 1, 1989 Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing the following sheets to its FERC Gas Tariff, Original Volume No. 1 and FERC Gas Tariff, Original Volume No. 2:

FERC Gas Tariff, Original Volume No. 1

Seventy-Sixth Revised Sheet No. 3-A
Fifty-Third Revised Sheet No. 3-B
Ninth Revised Sheet No. 3-F
Fourth Revised Sheet No. 3-G
Second Revised Sheet No. 3-H
Second Revised Sheet No. 3-I

FERC Gas Tariff, Original Volume No. 2

Twelfth Revised Sheet No. 2731
Tenth Revised Sheet No. 2827
Tenth Revised Sheet No. 2850
Eighth Revised Sheet No. 3010

Panhandle states that such filing reflects a rate adjustment pursuant to Opinion No. 334 issued October 10, 1989 in Docket No. RP89-187-000. Ordering Paragraph (B) of that Opinion provides that jurisdictional members of Gas Research Institute (GRI), such as Panhandle, may file a general R&D cost adjustment to be effective January 1, 1990. This adjustment will permit the collection of 1.26 cents per Dt of Program Funding Services for payment to GRI.

Panhandle states that copies of its filing have been served on all affected customers subject to the tariff sheets an applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a petition 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 petitions or protests should be filed on or before December 14, 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 petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-29092 Filed 12-12-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM90-2-18-000]

Texas Gas Transmission Corp.; Proposed Changes in FERC Gas Tariff

December 7, 1989.

Take notice that on December 1, 1989, Texas Gas Transmission Corporation (Texas Gas) tendered for filing the following revised tariff sheets to its FERC Gas Tariff:

FERC Gas Tariff, Original Volume No. 1

Twenty-second Revised Sheet No. 10
Twenty-second Revised Sheet No. 10A

FERC Gas Tariff, Original Volume No. 2-A

Third Revised Sheet No. 10
Third Revised Sheet No. 11

FERC Gas Tariff, Original Volume No. 3

Sixth Revised Sheet No. 21

The revised tariff sheets are being filed pursuant to section 24 of volume No. 1 and section 20 of volume No. 2-A of Texas Gas's tariff to reflect the 1990 General RD&D Funding Unit authorized by Opinion No. 334, issued by the Commission on October 10, 1989, in Docket No. RP89-187-000.

Copies of the revised tariff sheets are being mailed to Texas Gas's jurisdictional customers and interested state 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 file on or before December 14, 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. 89-29093 Filed 12-12-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM90-2-42-000]

Transwestern Pipeline Co.; Proposed Changes in FERC Gas Tariff

December 7, 1989.

Take notice that Transwestern Pipeline Company ("Transwestern") on December 1, 1989, tendered for filing, as part of its FERC Gas Tariff, Second Revised Volume 1, the following tariff sheet:

73rd Revised Sheet No. 5
40th Revised Sheet No. 6
8th Revised Sheet No. 37

The above referenced tariff sheets are being filed to adjust Transwestern's Gas Research Institute (GRI) surcharge rate pursuant to the Commission's Opinion No. 334, issued October 10, 1989 approving a GRI surcharge rate of $0.0130/mcf, to be effective January 1, 1990. Transwestern herein proposes to effectuate a GRI surcharge rate of $0.0124/dth (as converted from million cubic feet to dekatherms) on January 1, 1990, which represents a decrease of $0.0019/dth from the currently effective GRI surcharge rate of $0.0143/dth.

Transwestern, herein, respectfully requests that the Commission grant any and all waivers of its rules, regulations, and orders as may be necessary so as to permit the above-listed tariff sheets to become effective on January 1, 1990.

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. All such motions or protests should be filed on or before December 14, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-29099 Filed 12-12-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM90-5-30-000]

Trunkline Gas Co.; Proposed Changes in FERC Gas Tariff

December 7, 1989.

Take notice that on December 1, 1989 Trunkline Gas Company (Trunkline) tendered for filing the following sheets to its FERC Gas Tariff, Original Volume No. 1 and FERC Gas Tariff, Original Volume No. 2:

FERC Gas Tariff, Original Volume No. 1

Seventy-Fourth Revised Sheet No. 3-A
Tenth Revised Sheet No. 3-A.3
Tenth Revised Sheet No. 3-A.4

FERC Gas Tariff, Original Volume No. 2

Eleventh Revised Sheet No. 3725
Tenth Revised Sheet No. 3881
Tenth Revised Sheet No. 3920
Tenth Revised Sheet No. 3989

Trunkline states that such filing reflects a rate adjustment pursuant to Opinion No. 334 issued October 10, 1989 in Docket No. RP89-187-000. Ordering Paragraph (B) of that Opinion provides that jurisdictional members of Gas Research Institute (GRI), such as Trunkline, may file a general R&D cost adjustment to be effective January 1, 1990. This adjustment will permit the collection of 1.26 cents per Dt of Program Funding Services for payment to GRI.

Trunkline states that copies of its filing have been served on all affected customers subject to the tariff sheets and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a petition 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 385.2311 and 385.214). All such petitions or protests should be filed on or before December 14, 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 petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-29094 Filed 12-12-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM90-4-43-000]

Williams Natural Gas Co.; Proposed Changes in FERC Gas Tariff

December 7, 1989.

Take notice that Williams Gas Company (WNG) on December 1, 1989, tendered for filing the following tariff sheets to its FERC Gas Tariff, Original Volume No. 1:

Seventeenth Revised Sheet No. 6
Third Revised Sheet No. 6A
Sixteenth Revised Sheet No. 7
Third Revised Sheet Nos. 6B-6D

The proposed effective date of these tariff sheets is January 1, 1990.

WNG states that Seventeenth Revised Sheet No. 6 and Sixteenth Revised Sheet No. 7 reflect a decrease in the GRI funding unit from 1.51¢ per Dth to 1.26¢ per Dth for the year 1990, as approved by the Commission's Opinion No. 334, issued October 30, 1969.

WNG states that Third Revised Sheet Nos. 6B-6D are being filed to track additional costs allocated to WNG by Transwestern Pipeline Co. pursuant to Order No. 500 and WNG's take-or-pay passthrough Docket No. RP89-40.

WNG states that in accordance with submission procedures for electronic filings in Commission Order No. 493, *et al.*, WNG hereby submits a diskette along with the corresponding hard copies. Such hard copies include the same information as contained on the diskette.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before December 14, 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 proceedings. 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. 89-28095 Filed 12-12-89; 8:45 am]

BILLING CODE 6717-01-M

FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

Adoption of Changes to the Reports of Condition and Income

AGENCY: Federal Financial Institutions Examination Council.

ACTION: Notice of adoption of changes in reporting requirements.

SUMMARY: The Federal Financial Institutions Examination Council (FFIEC) has approved certain changes to the Reports of Condition and Income (Call Report) required quarterly by the Office of the Comptroller of the Currency (OCC) for national banks, the Federal Reserve Board (FRB) for state member banks, and the Federal Deposit Insurance Corporation (FDIC) for insured state nonmember commercial and savings banks. The Call Report changes will fulfill two objectives: (1) To provide the banking agencies with sufficient data to permit the monitoring of banks' risk-based capital levels, while limiting the amount of information reported by individual banks on the basis of bank size and capital level and (2) to provide other data considered necessary for bank supervisory purposes, particularly with respect to the nature and extent of banks' off-balance sheet activities. These changes will be implemented through the adoption of a new risk-based capital schedule (Schedule RC-R), a revised version of the current off-balance sheet schedule (Schedule RC-L), and modifications of existing items or the addition of new items in five other schedules. In addition, the data collected in the risk-based capital schedule during the first three quarters of 1990 will be accorded confidential treatment.

DATES: The effective date for these reporting changes is the March 31, 1990, report date, except for one new item that will be added to Schedule RC-O (Other Data for Deposit Insurance Assessments) as of June 30, 1990.

FOR FURTHER INFORMATION CONTACT:

OCC: David C. Motter, Special Assistant to the Chief National Bank Examiner, Office of the Comptroller of the Currency, 490 L'Enfant Plaza East SW., Washington, DC 20219, (202) 447-1587.

FRB: Rhoger H Pugh, Manager, Division of Banking Supervision and Regulation, Board of Governors of the Federal Reserve System, 20th and Constitution Avenue NW., Washington, DC 20551, (202) 728-5883.

FDIC: Robert F. Storch, Chief, Securities and Accounting Section, Division of Bank Supervision, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429, (202) 898-8906.

SUPPLEMENTARY INFORMATION: In August 1989, the Examination Council requested comment on proposed changes to the Call Report (54 FR 35533, August 28, 1989) and sent each commercial and savings bank required to file Call Reports (1) a document describing the proposed changes in reporting requirements and soliciting comments thereon, (2) samples of the report schedules that would be added or otherwise modified, and (3) draft instructions for the proposed risk-based capital schedule (Schedule RC-RBC) and the revised off-balance sheet schedule (Schedule RC-L).

The comment period expired on October 13 and the Examination Council received 18 letters in response to its request for comments: 12 letters from banks and bank holding companies, four from depository institution trade associations, one from a state banking department, and one from a Federal Reserve Bank. Of the letters from banking organizations, only two were from small banks. A majority of the commenters (11) regarded the proposed changes taken as a whole either favorably or somewhat favorably in light of the stated objectives for the changes. Nevertheless, most respondents also made specific comments about particular aspects of the proposed reporting changes or the related instructions.

The Examination Council has considered all of the comments submitted to it and determined that certain modifications should be made to the proposed report forms and related instructions in response to the comments received. After making these modifications, the Examination Council approved revised Call Report requirements that are otherwise substantially the same as those proposed in August. With one exception, these reporting changes will take effect as of March 31, 1990. Furthermore, the information report in the new risk-based capital schedule during the first three quarters of 1990 will be accorded confidential treatment. Data from this schedule for individual banks will become publicly available beginning with the reports for December 31, 1990.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96-511), the current Reports of Condition and Income required of all FDIC-insured commercial banks and all FDIC-supervised savings banks have been submitted, to and approved by, the Office of Management and Budget (OMB). (OMB Control Numbers: for OCC, 1577-0090; for FRB, 7100-0036; for FDIC, 3064-0052.) Each of the three banking agencies has submitted to OMB for its review the changes to the Call Reports that have been approved by the Examination Council.

Dated: December 8, 1989.

Robert J. Lawrence,

Executive Secretary, Federal Financial Institutions Examination Council.

[FR Doc. 89-29069 Filed 12-12-89; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL MARITIME COMMISSION

Notice of 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.: 224-003158-006.

Title: Port Authority of New York and New Jersey Terminal Agreement.

Parties:

Port Authority of New York and New Jersey

Ecuadorian Line, Inc. (ELI).

Synopsis: The Agreement amends the basic lease agreement to: extend the agreement's term to February 29, 1999, provide ELI the option to further extend the agreement's term for an additional five-year period, and set forth the terms for ELI's construction of a temperature control holding room at Shed 138, Port Newark.

Agreement No.: 224-200308.

Title: Indiana Port Commission Lease Agreement.

Parties:

Indiana Port Commission (Commission)
Pacific Great Lakes Transport Burns Harbor, Inc. (Pacific)
Lakes & Rivers Transfer Corporation, a Division of Jack Gray Transport, Inc. and Federal Marine Terminals Inc. DBA Burns Harbor Terminal Transfer (Burns).

Synopsis: The Agreement provides that Pacific has assigned all rights and obligations under their lease agreement with the Commission, involving property at the Port of Indiana (transit Shed #1, and preferential use of Berths #10 and #11, including outside storage areas adjacent to each of these berths), to Burns. The term of the Agreement is June 9, 1989 through May 31, 1991.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

Dated: December 7, 1989.

[FR Doc. 89-29017 Filed 12-12-89; 8:45 am]

BILLING CODE 6730-01-M

Notice of 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, D.C. Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 202-009548-038.

Title: United States Atlantic and Gulf Ports/Eastern Mediterranean and North African Freight Conference.

Parties:

Farrell Lines, Inc.
Lykes Bros. Steamship Co., Inc.
Nordana Line AS
Pharos Lines S.A.
Waterman Steamship Corporation.

Synopsis: The proposed amendment would clarify procedures for the discussion and modification or cancellation of proposed or effective independent actions.

Agreement No.: 202-010776-052.

Title: Asia North America Eastbound Rate Agreement.

Parties:

American President Lines, Ltd.
Kawasaki Kisen Kaisha, Ltd.
A.P. Moller-Maersk Line
Mitsui O.S.K. Lines, Ltd.
Neptune Orient Lines, Ltd.
Nippon Liner Systems, Ltd.
Nippon Yusen Kaisha Line
Sea-Land Service, Inc.

Synopsis: The proposed amendment would create a separate voting group having jurisdiction over cargo movements from Korea to the United States, Puerto Rico and the U.S. Virgin Islands.

Agreement No.: 226-010916-003.

Title: Global Equipment Management Agreement.

Parties:

The East Asiatic Co. Ltd. A/S
Johnson Line AB
Rederiaktiebolaget Transocean
Wilh. Wilhelmsen Limited A/S
Barber Blue Sea
Barber West Africa Line
EAC-PNSL Service Ltd.
EAC Lines Trans Pacific Service Ltd.
EAC-West Africa Service
Johnson Scanstar
Johnson South America Lines AB
Pacific Australia Direct Line
Portulloyd
Rosa Line
Scancarriers
Streamline
The East Asiatic Co. Ltd. A/S,
Rederiaktiebolaget Transocean, and
Wilh. Wilhelmsen Limited A/S (with respect to their respective participations in the ScanDutch service)
Swedish Orient Line
Transatlantic-Southern Africa Services
Willine.

Synopsis: The proposed amendment would add as parties to the Agreement: Laser Lines Ltd. AB, Rederiaktiebolaget Transatlantic, EAC-HIL Australia Service Ltd., Laser Eurosal, Laser Rosa, Laser Stream, and Atlantic Container Line BV. It would delete as parties to the Agreement: Johnson Line AB, Rederiaktiebolaget Transocean (except with respect to its participation in the ScanDutch service), EAC-West Africa Service, Johnson South America Lines AB, Rosa Line, and Streamline. The parties have requested a shortened review period.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

Dated: December 7, 1989.

[FR Doc. 89-29018 Filed 12-12-89; 8:45 am]

BILLING CODE 6730-01-M

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 202-009238-022.

Title: Greece Westbound Conference.

Parties:

Farrell Lines
Lykes Bros. Steamship Co., Ltd.
Sea-Land Service, Inc.
Zim Israel Navigation Company, Ltd.

Synopsis: The modification reduces, for a period of sixty days from the date of effectiveness, the required notification period for independent action from 10 calendar days to 4 calendar days. Parties have requested a shortened review period.

Agreement No.: 206-011266.

Title: United States Atlantic and Gulf Venezuela Freight Conference Carrier Agreement.

Parties:

United States Atlantic/Venezuela Freight Association
United States Gulf/Venezuela Freight Association

Synopsis: The proposed agreement would permit the parties to meet, discuss and agree upon rates, tariffs, service contracts, rules and conditions of service in the trade between U.S. Atlantic and Gulf ports and inland points via such ports, and ports and points in Venezuela.

By Order of the Federal Maritime Commission.

Dated: December 8, 1989.

Joseph C. Polking,

Secretary.

[FR Doc. 89-29076 Filed 12-12-89; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

CoreStates Financial Corp., et al.; 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 section 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 section 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 January 5, 1990.

A. **Federal Reserve Bank of Philadelphia** (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *CoreStates Financial Corp.*, Philadelphia, Pennsylvania; to merge with First Pennsylvania Corporation, Philadelphia, Pennsylvania, and thereby indirectly acquire First Pennsylvania Bank, N.A., Philadelphia, Pennsylvania; First Pennsylvania Bank (NJ), N.A., Evesham Twp., New Jersey; and First Pennsylvania Bank (Del), Wilmington, Delaware.

In connection with this application, Applicant proposes to acquire Centre Square Investment Group, Inc., Philadelphia, Pennsylvania, and thereby engage in providing investment advisory services pursuant to § 225.25(b)(4); First Pennsylvania Investments Company, Philadelphia, Pennsylvania, and thereby act as a discount broker pursuant to § 225.25(b)(15); First Pennsylvania International Capital Corporation, Philadelphia, Pennsylvania, which holds, nonconvertible capital notes of FIBI Holding Company, Ltd., a holding company organized under the laws of the State of Israel, pursuant to approval by Board order; First Pennsylvania Leasing, Inc., Philadelphia, Pennsylvania, and thereby engage in making or acquiring loans or other extensions of credit, in particular, commercial lending related to lease transactions and conditional sales financing pursuant to § 225.25(b)(5); Pennco Life Insurance Company, Phoenix, Arizona, and thereby engage in underwriting, as a reinsurer, of credit life and accident and health insurance in connection with extensions of credit by its subsidiary banks pursuant to § 225.25(b)(8); and Pennamco, Inc., Philadelphia, Pennsylvania, which is currently in the process of liquidation.

Board of Governors of the Federal Reserve System, December 7, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-29049 Filed 12-12-89; 8:45 am]

BILLING CODE 6210-01-M

Change in Bank Control Notice; Acquisition of Shares of Banks or Bank Holding Companies; Charles A. McNamara III

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 December 27, 1989.

A. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Charles A. McNamara, III.*, Tulsa, Oklahoma; to acquire 35.89 percent; Michael S. Forsman, Tulsa, Oklahoma, to acquire 16.56 percent; and David W. Holden, Tulsa, Oklahoma; to acquire 2.76 percent of the voting shares of Central Service Corporation, Enid, Oklahoma, and thereby indirectly acquire Central National Bank and Trust Co., Enid, Oklahoma.

Board of Governors of the Federal Reserve System, December 7, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-29050 Filed 12-12-89; 8:45 am]

BILLING CODE 6210-01-M

Pennyrile Bancshares, Inc., et al.; Formation of, Acquisition by, or Merger of Bank Holding Companies

The company listed in this notice has 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 225.24) 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)).

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 to the Reserve Bank indicated for that application or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and

summarizing the evidence that would be presented at a hearing.

Comments regarding this application must be received not later than January 4, 1990.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Pennyrile Bancshares, Inc.*, Hopkinsville, Kentucky; to become a bank holding company by acquiring 100 percent of the voting shares of Pennyrile Citizens Bank and Trust Company, Hopkinsville, Kentucky.

Board of Governors of the Federal Reserve System, December 7, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-29051 Filed 12-12-89; 8:45 am]

BILLING CODE 6210-01-M

Synovus Financial Corp., et al.; Notice of Applications to Engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

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 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.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than January 3, 1990.

***A.* Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 100 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *Synovus Financial Corp.*, Columbus, Georgia; to engage *de novo* through its subsidiary, Synovus Data Corp., Columbus, Georgia, in providing bank and bank-related data processing services for affiliated and non-affiliated financial institutions, corporations, and businesses pursuant to § 225.25(b)(7); to retain 82 percent of Total System Services, Inc., Columbus, Georgia, and thereby engage in data processing activities; and to retain Columbus Depot Equipment Company, Columbus, Georgia, and thereby engage in leasing activities pursuant to § 225.25(b)(5) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, December 7, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-29052 Filed 12-12-89; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Advisory Committee on the Food and Drug Administration; Establishment

Pursuant to Public Law 92-463, the Federal Advisory Committee Act, the Office of the Secretary, Department of Health and Human Services, announces the establishment by the Secretary of the Advisory Committee on the Food and Drug Administration.

The Advisory Committee shall examine the mission, responsibilities and structure of the Food and Drug Administration (FDA) in order to make recommendations on how the FDA can be strengthened to benefit the public health. The Advisory Committee shall provide its advice and recommendations to the Secretary of Health and Human Services and the Assistance Secretary for Health.

The Advisory Committee shall terminate on November 20, 1990, unless the Secretary of Health and Human Services determines that continuance is in the public interest.

Dated: December 6, 1989.

James O. Mason,

Assistant Secretary for Health and Acting Surgeon General.

[FR Doc. 89-28871 Filed 12-12-89; 8:45 am]

BILLING CODE 4150-04-M

Health Resources and Services Administration

Filing of Annual Report of Federal Advisory Committee

Notice is hereby given that pursuant to section 13 of Public Law 92-463, the Annual Report for the following Health Resources and Service Administration's Federal Advisory Committee has been filed with the Library of Congress: National Advisory Council on the National Health Service Corps.

Copies are available to the public for inspection at the Library of Congress Newspaper and Current Periodical Reading Room, Room 1026, Thomas Jefferson Building, Second Street and Independence Avenue, SE., Washington, DC, or weekdays between 9:00 a.m. and 4:30 p.m. at the Department of Health and Human Services, Department Library, HHS North Building, Room G-400, 330 Independence Avenue, SW., Washington, DC, telephone (202) 245-6791. Copies may be obtained from: Anna Mae Voight, National Advisory Council on the National Health Service Corps, Room 7A-23, Parklawn Building, 5600 Fishers Land, Rockville, Maryland 20857, Telephone (301) 443-4814.

Dated: December 7, 1989.

[FR Doc. 89-29005 Filed 12-12-89; 8:45 am]

BILLING CODE 4160-15-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Regional Administrator-Regional Housing Commissioner

[Docket No. D-89-909]

Designation of Order of Succession; Seattle Regional Office, Region X, Washington

AGENCY: Department of Housing and Urban Development, HUD.

ACTION: Designation of Order of Succession.

SUMMARY: The Regional Administrator-Regional Housing Commissioner of Region X (Seattle) is designating officials who may serve as Acting Regional Administrator-Regional Housing Commissioner, Region X (Seattle), during the absence, disability,

or vacancy in the position of Regional Administrator-Regional Housing Commissioner.

EFFECTIVE DATE: December 6, 1989.

FOR FURTHER INFORMATION CONTACT: Waller Taylor III, Regional Counsel, Seattle Regional Office, Department of Housing and Urban Development, 1321 Second Avenue, Seattle, Washington 98101 (206) 442–4970. (This is not a toll-free number.)

Designation: Each of the officials appointed to the following positions is designated to serve as Acting Regional Administrator-Regional Housing Commissioner, Region X (Seattle) during the absence, disability, or vacancy in the position of the Regional Administrator-Regional Housing Commissioner with all the powers, functions, and duties redelegated or assigned to the Regional Administrator-Regional Housing Commissioner: Provided that no official is authorized to serve as Acting Regional Administrator-Regional Housing
Commissioner unless all preceding listed officials in this designation are unavailable to act by reason of absence, disability, or vacancy in the position.

1. Deputy Regional Administrator
2. Director, Office of Administration
3. Regional Counsel
4. Director, Office of Community Planning and Development
5. Director, Office of Indian Programs.

Authority: Delegation of Authority, 27, FR 4319 (1962): section 9(c), Department of Housing and Urban Development Act, 42 U.S.C. 3531 note; and Interim Order II, 31 FR 815 (1966).

Dated: December 1, 1989.

William Y. Nishimura,

Regional Administrator-Regional Housing Commissioner, Seattle Regional Office.

[FR Doc. 89–29088 Filed 12–12–89; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM910–GPO–401; NM NM 69164]

Proposed Reinstatement of Terminated Oil and Gas Lease; New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Under the provisions of 43 CFR 3108.2–3, George E. Conley petitioned for reinstatement of oil and gas lease NM NM 69164 covering the following described lands located in Lea County, New Mexico:

Eddy County, New Mexico

T. 25 S., R. 27 E., NMPM
sec. 4: SWNW, E½SW, SWSW, SE
Containing 320.00 acres.

It has been shown to my satisfaction that failure to make timely payments of rental was due to inadvertence.

No valid lease has been issued effecting the lands. Payment of back rentals and administrative cost of $500.00 has been paid. Future rentals shall be at the rate of $5.00 per acre per year and royalties shall be at the rate of 16⅔ percent, computed on a sliding scale of 4 percentage points greater than the competitive royalty schedule attached to the lease. Reimbursement for cost of the publication of this notice shall be paid by the lessee.

Dated: December 4, 1989.

Clarence F. Hougland,

Acting Chief, Adjudication Section.

[FR Doc. 89–29061 Filed 12–12–89; 8:45 am]

BILLING CODE 4310–FB

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701–TA–299 and 731–TA–431 (Final)]

Aluminum, Sulfate From Venezuela

Determinations

On the basis of the record [1] developed in the subject investigations, the Commission determines,[2] pursuant to section 705(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)) (the act), that an industry in the United States is materially injured by reason of imports from Venezuela of aluminum sulfate, provided for in subheading 2833.22.00 of the Harmonized Tariff Schedule of the United States (previously under item 417.16 of the former Tariff Schedules of the United States), that have been found by the Department of Commerce to be subsidized by the Government of Venezuela. The Commission also determines,[2] pursuant to section 735(b) of the act (19 U.S.C. 1673d(b)), that an industry in the United States is materially injured by reason of imports from Venezuela of aluminum sulfate that have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV).

Background

The Commission instituted the countervailing duty investigation effective October 25, 1989, following a final determination by the Department of Commerce that imports of aluminum sulfate from Venezuela were being subsidized within the meaning of section 705(a) of the act (19 U.S.C. 1671d(a)). The antidumping investigation was instituted by the Commission effective August 9, 1989, following a preliminary determination by the Department of Commerce that imports of aluminum sulfate from Venezuela were being sold at LTFV within the meaning of section 735(a) of the act (19 U.S.C. 1673d(a)). Notice of the institution of the Commission's investigations and of a public hearing to be held in connection therewith was given by posting copies of the notices in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notices in the **Federal Register** of August 24, 1989 (54 FR 35256) and October 30, 1989 (54 FR 43998). The hearing was held in Washington, DC, on October 26, 1989, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in these investigations to the Secretary of Commerce on December 6, 1989. The views of the Commission are contained in USITC Publication 2242 (December 1989), entitled "Aluminum Sulfate from Venezuela: Determination of the Commission in Investigation No. 299 (Final) Under the Tariff Act of 1930 and Determination of the Commission in Investigation No. 431 (Final) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigation."

Issued: December 7, 1989.

By Order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 89–29081 Filed 12–12–89; 8:45 am]

BILLING CODE 7020–02–M

[1] The record is defined in § 207.2(h) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(h)).

[2] Chairman Brunsdale dissenting.

[Investigation No. 337–TA–293]

Certain Crystalline Cefadroxil Monohydrate; Change of Commission Investigative Attorney

Notice is hereby given that, as of this date, George C. Summerfield, Esq., of the Office of Unfair Import Investigations has been designated as the Commission investigative attorneys in the above-cited investigation instead of Cheri M. Taylor, Esq.

The Secretary is requested to publish this Notice in the **Federal Register.**

Dated: December 1, 1989.

Respectfully submitted,

Jeffrey R. Whieldon,

Acting Director, Office of Unfair Import Investigations. 500 E Street, SW, Washington, DC 20436.

[FR Doc. 89-29082 Filed 12-12-89; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 332-285]

Durum Wheat; Conditions of Competition Between U.S. and Canadian Industries

AGENCY: United States International Trade Commission.

ACTION: Institution of investigation.

SUMMARY: Following receipt on October 26, 1989, of a request from the Committee on Ways and Means, U.S. House of Representatives, and on November 15, 1989, from the Committee on Finance, United States Senate, the Commission instituted investigation No. 332-285, Durum Wheat: Conditions of Competition Between the U.S. and Canadian Industries, under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)). As requested by the Committees, the study will focus on the competitive positions of U.S. and Canadian durum wheat in the U.S. market, but it will also address, to the extent possible, competitive conditions affecting U.S. and Canadian durum wheat in the Canadian market. As requested by the Committees, the Commission will submit its report not later than June 22, 1990.

EFFECTIVE DATE: December 4, 1989.

FOR FURTHER INFORMATION CONTACT: For information on other than the legal aspects of the study, contact John Pierre-Benoist (202-252-1320) or David Ingersoll (202-252-1309), Agriculture Division, Office of Industries, U.S. International Trade Commission. For information on the legal aspects of the study, contact William Gearhart (202-252-1091), Office of the General Counsel, U.S. International Trade Commission.

Background:

As requested by the Committees, the Commission will seek to provide in its report, to the extent possible, the following information:

(1) A description of the U.S. and Canadian durum wheat industries, including patterns of production, processing, and consumption;

(2) Statistical analyses of both U.S. and Canadian durum production, consumption, exports, imports, and import market shares, in terms of both levels and trends;

(3) A description of the current conditions of trade in durum wheat between the United States and Canada, and any recent changes in such conditions, including information on prices, exchange rates, transportation costs, and marketing practices (to the extent such practices have measurable effects). To the extent possible, the Commission will also seek to assess the regional impact of imports by determining their geographic concentration;

(4) A description of the Federal, State, or provincial government (either U.S. or Canadian) programs and policies to assist durum wheat producers and processors—for example programs that reduce fixed costs, programs that enhance revenues, and transportation assistance programs;

(5) A discussion of all other relevant factors affecting conditions of competition, including product prices, transportation costs, and product quality.

Written Submissions: Interested persons are invited to submit written statements concerning the investigation. Written submissions to be considered by the Commission should be received by the close of business on March 30, 1990. Commercial or financial information which a submitter desires the Commission to treat as confidential must be submitted on separate sheets of paper, each marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of § 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). All written submissions, except for confidential business information, will be available for inspection by interested persons. All submissions should be addressed to the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

Hearing impaired persons may obtain information on this study by contacting the Commission's TDD terminal on (202-252-1810).

Issued: December 5, 1989.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 89-29083 Filed 12-12-89; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-276 (Enforcement Proceeding)]

Certain Erasable Programmable Read Only Memories, Components Thereof, Products Containing Such Memories, and Processes for Making Such Memories; Designation of Commission Investigative Attorney

Notice is hereby given that, as of this date, Thomas L. Jarvis, Esq., of the Office of Unfair Import Investigations is designated as the Commission investigative attorney in the above-cited investigation.

The Secretary is requested to publish this notice in the **Federal Register.**

Dated: December 7, 1989.

Respectfully submitted,

Jeffrey R. Whieldon,

Acting Director, Office of Unfair Import Investigations, 500 E Street, SW, Washington, DC 20436.

[FR Doc. 89-29084 Filed 12-12-89; 8:45 am]

BILLING CODE 7020-02-M

DEPARTMENT OF JUSTICE

Notice of Lodging Consent Decree; United States v. Marmon Corp.

In accordance with section 122(d)(2)(B) of the Comprehensive Environmental Response, Compensation and Liability Act and with Department of Justice Policy, 28 CFR 50.7, notice is hereby given that on November 28, 1989, a proposed Consent Decree in United States v. The Marmon Corporation, Rival Manufacturing Company, United Gas Pipe Line Company and Kiewit Continental, Inc., Civil Action No. J89-0680(L) was lodged with the United States District Court, Southern District of Mississippi, Jackson Division. The proposed Consent Decree concerns the cleanup of the Flowood, Mississippi Superfund Site ("Site") and reimbursement of expenses incurred and to be incurred by the United States in connection with the Site. The proposed Consent Decree requires the defendants to finance and conduct one hundred percent (100%) of the remedial/design action. The remedial action selected by the Environmental Protection Agency ("EPA") requires the defendants to stabilize/solidify the contaminated soils/sediments and, following stabilization, place the soils/sediments into an excavated slough area. The Consent Decree also requires the defendants to perform operation and maintenance in accordance with the Record of Decision (ROD). Under the

Consent Decree, the defendants will reimburse the United States $350,000 for costs previously incurred and all future oversight costs. In the event the defendants fail to perform the work in accordance with the Consent Decree, the United States reserves the right to undertake, pursuant to CERCLA, removal and/or remedial actions and to recover all costs of those actions. The Consent Decree also provides for graduated stipulated penalties for the defendants' failure to comply with the terms of the Consent Decree. Termination of the Consent Decree is effected upon EPA's issuance of the certificate of compliance and completion of the operation and maintenance plan. However, termination shall not affect the Covenant Not to Sue provisions in the Consent Decree or the defendants' obligation to retain records and reimburse EPA oversight costs.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *The Marmon Corporation, et al.*, D.J. Ref. 90–11–2–466.

The proposed Consent Decree may be examined at the Office of the United States Attorney, Southern District of Mississippi, Jackson Division, United States Courthouse, Jackson, Mississippi and at the Region IV, Office of the Environmental Protection Agency, 345 Courtland Street, N.E., Atlanta Georgia. Copies of the Consent Decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, room 1647, Ninth Street and Pennsylvania Avenue, NW., Washington, DC 20530. A copy of the proposed Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of $5.60 (10 cents per page reproduction cost) payable to the Treasurer of the United States.

Richard B. Stewart,

Assistant Attorney General, Land & Natural Resources Division.

[FR Doc. 89–29059 Filed 12–12–89; 8:45 am]

BILLING CODE 4410–01–M

Chemical Corp. et al.; Notice of Lodging of Consent Decree; United States v. Occidental Chemical Corp. et al.

In accordance with the policy of the Department of Justice, 28 CFR 50.7, notice is hereby given that on December 4, 1989, a proposed consent decree in *United States* v. *Occidental Chemical Corp, et al.*, and *New Jersey* v. *Occidental Chemical Corp., et al.*, was lodged with the United States District Court for the District of New Jersey. The actions were brought pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act and certain state statutes for cleanup of a portion of the Diamond Alkali Superfund Site located in Newark, New Jersey, and for the recovery of costs expended by the United States and the State in connection with the Site.

The consent decree is entered into between the United States and the State of New Jersey and Occidental Chemical Corporation (the former and current operator of the site) and Chemical Land Holdings, Inc., (the current owner of the site). The Decree requires the defendants to implement the remedial action selected by the Environmental Protection Agency ("EPA") for the site and to reimburse the United States and the State of New Jersey for their response costs at the site not previously reimbursed through prior settlements.

The Department of Justice will receive comments relating to the proposed consent decree for a period of 30 days from the date of this publication. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, DC 20530. All comments should refer to *United States* v. *Occidental Chemical Corp., et al.*, D.O.J. Ref. 90–11–2–399.

The proposed consent decree may be examined at the office of the United States Attorney, District of New Jersey, Federal Building, Room 502, 970 Broad Street, Newark, New Jersey 07102 and at the Region II Office of the Environmental Protection Agency, 26 Federal Plaza, New York, New York 10278. Copies of the proposed consent decree may also be examined at the Environmental Enforcement Section, Land and Natural Resources Division, United States Department of Justice, Room 1647, Ninth Street and Pennsylvania Avenue, N.W. Washington, D.C. 20530. A copy of the proposed decree may be obtained by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. Any request for a copy of the decree should be accompanied by a check in the amount of $8.60 for copying costs payable to the "United States Treasurer."

Richard B. Stewart,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 89–29058 Filed 12–12–89; 8:45 am]

BILLING CODE 4410–01–M

Antitrust Division

National Cooperative Research Act of 1984—High-Temperature Resistant Diesel Particulate Trap; Southwest Research Institute

Notice is hereby given that, on November 8, 1989, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), Southwest Research Institute ("SwRI") filed a written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing the withdrawal of a party to its group research project regarding "High-Temperature Resistant Diesel Particulate Trap." The notification was filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the SwRI advised that Navistar International Corporation (Navistar International Transportation Corporation) (effective September 12, 1989) has withdrawn as a party to the group research project.

No other changes have been made in either the membership or planned activity of the group research project.

On August 31, 1988, SwRI filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice (the "Department") published a notice in the **Federal Register** pursuant to section 6(b) of the Act on September 27, 1988, 53 FR 37654–37655. On November 2, 1988, SwRI filed an additional written notification. The Department published a notice in the **Federal Register** in response to the additional notification on December 2, 1988, 53 FR 48735.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 89–29060 Filed 12–12–89; 8:45 am]

BILLING CODE 4410–01–M

Drug Enforcement Administration

[Docket No. 89-43]

Norman Bertels, M.D., Winston-Salem, NC; Hearing

Notice is hereby given that on May 25, 1989, the Drug Enforcement Administration, Department of Justice, issued to Norman Bertels, M.D., an Order to Show Cause as to why the Drug Enforcement Administration should not deny your application for a DEA Certificate of Registration.

Thirty days have elapsed since the said Order to Show Cause was received by Respondent, and written request for a hearing having been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in this matter will be held on Wednesday, January 24, 1990, commencing at 9:45 a.m., at the United States Bankruptcy Court, Meyers Law Center Building, 101 West Sycamore Street, Courtroom 3, Third Floor, Greensboro, North Carolina.

Dated: December 4, 1989.

John C. Lawn,

Administrator, Drug Enforcement Administration.

[FR Doc. 89-29073 Filed 12-12-89; 8:45 am]

BILLING CODE 4410-09-M

[Docket No. 89-48]

John T. Flanigan, D.D.S., Tampa, FL; Hearing

Notice is hereby given that on June 5, 1989, the Drug Enforcement Administration, Department of Justice, issued to John T. Flanigan, D.D.S., an Order to Show Cause as to why the Drug Enforcement Administration should not revoke your DEA Certificate of Registration, AF1043429, and deny any pending applications for registration.

Thirty days have elapsed since the said Order to Show Cause was received by Respondent, and written request for a hearing having been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in this matter will be held on Tuesday, January 16, 1990, commencing at 10 a.m., at the United States District Court, 611 North Florida Avenue, Room 435, Tampa, Florida.

Dated: December 4, 1989.

John C. Lawn,

Administrator, Drug Enforcement Administration.

[FR Doc. 89-29074 Filed 12-12-89; 8:45 am]

BILLING CODE 4410-09-M

[Docket No. 89-53]

John S. Noell, M.D. Morgantown, NC; Hearing

Notice is hereby given that on June 19, 1989, the Drug Enforcement Administration, Department of Justice, issued to John S. Noell, M.D., an Order to Show Cause as to why the Drug Enforcement Administration should not deny your application for a DEA Certificate of Registration.

Thirty days have elapsed since the said Order to Show Cause was received by Respondent, and written request for a hearing having been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in this matter will be held on Friday January 26, 1990, commencing at 9:45 a.m., at the United States Bankruptcy Court, Meyers Law Center Building, 101 West Sycamore Street, Courtroom 3, Third Floor, Greensboro, North Carolina.

Dated: December 4, 1989.

John C. Lawn,

Administrator, Drug Enforcement Administration.

[FR Doc. 89-29075 Filed 12-12-89; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Application Nos. D-7494 and D-7495]

Withdrawal of the Notice of Proposed Exemption Involving the American Medical Association Pension Plan and the American Medical Association Retirement and Savings Plan (together, the Plans); Located in Chicago, IL

In the Federal Register dated October 26, 1988 (53 FR 43284), the Department of Labor (the Department) published a notice of proposed exemption from the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 and from certain taxes imposed by the Internal Revenue Code of 1986. The notice of proposed exemption (the Notice) concerned the acquisition or sale by the Plans of shares of certain openend investment companies registered under the Investment Company Act of 1940 (the AMA Mutual Funds) managed by AMA Advisers, Inc. (AMA Advisers), an affiliate of the American Medical Association (AMA), the sponsor of the Plans.

By letter dated November 17, 1989, the applicant informed the Department that the AMA no longer wishes to proceed with the transactions which were the subject of the exemption request. Therefore, the applicant has requested that the exemption application be withdrawn.

Accordingly, the notice of proposed exemption is hereby withdrawn.

Signed at Washington, DC, the 7th day of December, 1989.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 89-29070 Filed 12-12-89; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 89-104; Exemption Application No. D-8023 et al.]

Grant of Individual Exemptions; Yehudi M. Felman, M.D., P.C. Defined Benefit Pension Plan, et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Grant of individual exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Notices were published in the Federal Register of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, DC. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of pendency were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102

of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

Yehudi M. Felman, M.D., P.C. Defined Benefit Pension Plan (the Plan), Located in Brooklyn, New York

[Prohibited Transaction Exemption 89–104; Exemption Application No. D–8023]

Exemption

The sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the purchase of certain shares in a cooperative corporation by the Plan from Yehudi M. Felman, M.D., P.C. (the Employer), a disqualified person with respect to the Plan, and the subsequent lease of an apartment from the Plan to the Employer, provided that the terms of the transactions are no less favorable than the Plan could obtain in arm's-length transactions with an unrelated party and that the transactions represent no more than 25 percent of the assets of the Plan at the time of purchase.[1]

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on November 3, 1989, at 54 FR 46490.

FOR FURTHER INFORMATION CONTACT: Paul Kelty of the Department, telephone (202) 523–8194. (This is not a toll-free number.)

Casino Signs Inc. Money Purchase Pension Plan (the Plan), Located in Las Vegas, Nevada

[1] Because Yehudi Felman is the sole shareholder of the Employer and he and his wife, Brenda Felman, are the only participants in the Plan, there is no jurisdiction under title I of the Act pursuant to 29 CFR 2510.3–3(b). However, there is jurisdiction under title II of the Act under section 4975 of the Code.

[Prohibited Transaction Exemption 89–105; Exemption Application No. D–8086]

Exemption

The restrictions of section 406 (a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the proposed cash sale of real property by the Plan to W. Ben Maze, K.A. Maze and Michael Dean Rogers individually, officers and directors of Casino Signs, Inc., and as such parties in interest with respect to the Plan, provided the Plan receives the greater of $96,000 or the fair market value as determined by an independent, qualified appraiser at the time of the sale.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on October 2, 1989 at 54 FR 40544.

FOR FURTHER INFORMATION CONTACT: Ekaterina A. Uzlyan of the Department, telephone (202) 523–8194. (This is not a toll-free number.)

Howard Simon and Associates, Inc. Profit Sharing Plan (the Plan), Located in Deerfield, IL

[Prohibited Transaction Exemption 89–106; Exemption Application No. D–7984]

Exemption

The restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to: (1) the purchase, by the individually-directed accounts (the Rollover Accounts) in the Plan of Mr. Howard Simon (Mr. Simon) and his spouse, Mrs. Elizabeth M. Simon (Mrs. Simon) of certain computer equipment (the Equipment) for the total cash consideration of $14,625; (2) the leasing (the Lease) of the Equipment by the Rollover Accounts to Dudley Enterprises, Inc. (DEI), a party in interest with respect to the Plan; (3) the guarantee of rental payment under the Lease by Mr. and Mrs. Simon; and (4) the future sale of the Equipment by the Rollover Accounts to DEI pursuant to an option to purchase, provided the terms of the transactions are at least as favorable to the Rollover Accounts as those obtainable in arm's length transactions with unrelated parties.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on November 3, 1989 at 54 FR 46488.

FOR FURTHER INFORMATION CONTACT: Ms. Jan D. Broady of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 7th day of December 1989.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 89–29071 Filed 12–12–89; 8:45 am]

BILLING CODE 4510–29–M

[Application No. D-7846] et al.

Proposed Exemptions; Retirement System for Savings Institutions (RSSI), et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Notice of proposed exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemptions, unless otherwise stated in the Notice of Pendency, within 45 days from the date of publication of this **Federal Register** Notice. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Pension and Welfare Benefits Administration, Office of Regulations and Interpretations, room N-5671, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210. Attention: Application No. stated in each Notice of Pendency. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S.Department of Labor, room N-5507, 200 Constitution Avenue NW., Washington, DC 20210.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department on or before December 28, 1989. Such notice shall include a copy of the notice of pendency of the exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of pendency are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

Retirement System for Savings Institutions (RSSI), Located in New York, New York

(Application No. D-7846)

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975. If the exemption is granted the restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, shall not apply to: (1) The proposed initial acquisition of shares of Newco by RSSI from Newco by means of transferring the operating assets and business of RSSI to Newco in exchange for Newco stock; (2) the proposed purchase of Newco stock by a member of Newco's management from a plan owning units in the investment funds offered by RSSI (a Participating Plan); (3) the proposed purchase of Newco stock by a Participating Plan from Newco or another Participating Plan which is a party in interest by reason of ownership of Newco stock; and (4) the proposed purchase of Newco stock by Newco from the Newco Stock Fund maintained by RSSI, provided the terms of all the transactions are not less favorable to the Participating Plans than those obtainable in arm's-length transactions with unrelated parties.

Summary of Facts and Representations

1. RSSI was established on October 22, 1940 pursuant to section 200 of the Insurance Law of New York. The Department issued an opinion in 1980 that section 200 of the New York Insurance Law, as applied to RSSI, was preempted by the Act. RSSI was established as an investment vehicle for plans sponsored by savings banks, affiliated entities and similar organizations located in New York State and New England. RSSI currently operates as a non-profit trust available as an investment vehicle to pension and profit sharing plans qualified under section 401(a) of the Code. RSSI is also an open-end diversified management investment company, registered under the Investment Company Act of 1940 (the 1940 Act). The business and affairs of RSSI are managed by its Board of Trustees.

2. Approximately 130 Participating Plans own units in the investment funds offered by RSSI. The total number of participants in these Plans is approximately 30,147. As of September 30, 1988, the aggregate value of assets held by RSSI was approximately $559 million. RSSI currently offers eight investment funds, some of which are internally managed by RSSI's employees, and the remainder of which are managed by outside registered investment advisers. RSSI currently provides a broad range of services to the Participating Plans in the area of plan administration.

3. In order to expand the services currently provided by RSSI to the Participating Plans and to unlock the "going concern" value of RSSI's operating assets for the benefit of the Participating Plans, RSSI wishes to undertake the proposed reorganization (the Reorganization). Under its current structure, participation in RSSI is limited to plans qualified under section 401(a) of the Code. RSSI would risk losing its tax-exempt status if it were to offer its products and services on a for-profit basis. Further, RSSI's inability to offer its management the possibility of equity participation in a profit-making enterprise has limited its ability to attract and retain highly capable management personnel. The creation of Newco will provide a vehicle to overcome these limitations for the benefit of Participating Plans. Newco, as an entity separate and apart from RSSI, would be free of the constraints imposed upon RSSI, and would thus be able to develop new products and services which could be offered to third parties. This will enable Newco to develop a broader base of clients and expertise than RSSI currently possesses and to realize certain economies of scale from the enhanced range of activities. The Reorganization will involve several material aspects, which are described below.

4. Under the Reorganization, a new and separate corporation, Newco, [1] will be organized as a Delaware corporation. RSSI will transfer to Newco, in exchange for Newco stock, all of its operating assets and business (e.g., office, furniture, computers, files, goodwill, etc.). In addition, it is anticipated that the current employees of RSSI will, upon the consummation of the Reorganization, become employees of Newco.

5. RSSI's Board of Trustees will be reorganized as may be necessary to comply with federal securities laws. It is contemplated that the Board of Trustees of RSSI following the consummation of the Reorganization will be reduced in size so that the standards of the 1940 Act and any SEC-imposed requirements are satisfied. Most of the persons remaining on RSSI's Board of Trustees, however, will be persons who are currently members of the Board of Trustees.

6. It is contemplated that the Board of Directors of Newco will initially consist of some of the same persons who currently serve on RSSI's Board of Trustees. Each of these persons is, with certain exceptions, the chairman of the board and/or the chief executive officer of the sponsor of a Participating Plan.

7. The investment pool of RSSI, i.e., the pool of assets invested by RSSI for the benefit of Participating Plans, would remain with RSSI. RSSI will continue to operate as a common law trust, exempt from federal taxation under section 501(a) of the Code, and as an open-end mutual fund registered under the 1940 Act.

8. Newco will form at least two operating subsidiaries: one (the Investment Adviser) will, pursuant to a management agreement, manage the RSSI funds currently being managed internally by RSSI employees. The Investment Adviser would also be free to enter into similar arrangements with other mutual funds, individuals, and entities, and its business would not be limited to servicing plans qualified under Code section 401(a). A second subsidiary of Newco (the Service Company) would perform administrative and management services with respect to RSSI and the Participating Plans. The Service Company would essentially be performing the same services for RSSI as are being performed currently by RSSI employees.

[1] While a permanent name has not yet been selected for Newco, the applicants represent that it is presently anticipated that after the consummation of the Reorganization, Newco will be known as "The Retirement System, Inc".

9. The shares of Newco stock received by RSSI in exchange for its operating assets and business would be allocated to the accounts of the Participating Plans in the same proportion that the dollar value of each Participating Plan's account, determined as of a record date established by RSSI's Board of Trustees, bears to the overall dollar value of the total units in RSSI. The record date shall be the date which establishes the right of the Participating Plans to vote on the Reorganization.

10. With respect to Participating Plans that are defined contribution plans (DC Plans), their allocated share of Newco stock would be deposited in a special fund established for that purpose (the Newco Stock Fund). The Newco Stock Fund would differ from RSSI's other funds in several ways: (a) It would be a finite, self-liquidating fund with no other Newco shares deposited other than those allocated to DC Plans; (b) neither plan administrators nor individual participants in DC Plans would be able to voluntarily transfer the value of their units in the Newco Stock Fund to other investment funds offered by RSSI; and (c) all investment and voting decisions by any DC Plan with respect to its allocated shares deposited in the Newco Stock Fund would be made by the plan administrator of the DC Plan and not by the Board of Trustees of RSSI. Participating Plans that are defined benefit plans (DB Plans) would be given the option of depositing their allocated shares of Newco stock either within RSSI's trust (but outside of the Newco Stock Fund and RSSI's other funds), or outside of RSSI's trust with another qualified entity serving as trustee or custodian of the shares on behalf of the Participating Plan.

11. Any Participating Plan that does not want to hold part or all of its allocated Newco shares would have the opportunity, at the time of consummation of the Reorganization (the Closing), and at specified times thereafter, to sell its allocated shares. DC Plans will be given priority over DB Plans in making such sales, for administrative reasons. Since individual participants in a DC Plan would have to have the value of the allocated shares credited to their accounts in the form of units of the Newco Stock Fund and would, upon termination of their employment with the sponsor of the DC Plan, normally have the right to receive the value of those accounts in cash, the applicants represent that the holding of Newco shares by DC Plans raises certain concerns. The DC Plans could incur increased expenses to the extent they would have to: (a) Keep records of the value of units in the Newco Stock Fund allocated to individual participants' accounts; (b) explain to individual participants the meaning and value of their small Newco Stock Fund accounts as reflected in the statements sent to them by the DC Plans; and (c) redeem units in the Newco Stock Fund in order to make lump sum payments to those participants who elect to receive the cash equivalent of the Newco units allocated to their accounts upon the termination of their employment and withdrawal from the DC Plan. The applicants represent that from the perspective of Newco, its stockholders (including the DB Plans) and its management, it would be desirable to minimize to the greatest extent possible the need for Newco to be obligated to repurchase allocated shares from the Newco Stock Fund.

12. Newco shares to be sold by Plans at the Closing would be offered to: (a) DB Plans, pro rata, based on the aggregate number of allocated shares offered and the number of allocated shares that each DB Plan desires to purchase, and (b) in the event that the DB Plans do not purchase all of such offered shares, to new defined benefit plans (New DB Plans) which became unit holders in RSSI after the record date for the Reorganization, and to members of Newco's management. Such acquisitions would be pro rata, based on the aggregate number of allocated shares offered to such New DB Plans and members of Newco's management and the number of such allocated shares each desires to purchase. The applicants represent that they believe that minimizing investments by third parties would best serve the interests of Newco, RSSI and Participating Plans by preserving a continuity of ownership interests in Newco, ensuring that Participating Plans reap the rewards of Newco ownership to the maximum extent consistent with their own investment discretion, maintaining strong ties between RSSI and Participating Plans, and ensuring the continued offering of quality serivices to Participating Plans at reasonable prices.

13. The Participating Plans and Newco's other stockholders will enter into a stockholders' agreement (the Stockholders' Agreement) with Newco and RSSI which would provide, in addition to the above-described opportunities to "cash out" Newco shares initially allocated to Participating Plans, for restrictions on transfers of Newco shares, limitations on the maximum amount of Newco capital stock that could be owned by any Newco stockholder, options in favor of

Newco to repurchase shares of Newco stock upon the termination of employment or death of a stockholder or involuntary transfer of such shares, the obligation of Newco to repurchase shares in certain circumstances to provide DC Plans with the cash to distribute to withdrawing employees, and for limited third party investment in Newco.

14. The Closing would not be the only opportunity for Participating Plans to sell their allocated shares. Three additional periods (Offer Periods) would open within 30 days following the delivery of Newco's audited financial statements for each of its first three full or partial years of operation. During these Offer Periods, Participating Plans (with DC Plans again having a priority) could sell their allocated shares to eligible purchasers, which would include all Newco stockholders (except DC Plans) as of the date of commencement of such period, and in addition, any DB Plan, New DB Plan or member of Newco's management who was not a stockholder as of the date of commencement of such Offer Period. Upon the termination of employment of a vested participant in a DC Plan, such participant would have the right to receive the cash value of the units in the Newco Stock Fund allocated to his account.

15. With certain specified exceptions, no stockholder of Newco may own more than 5% of Newco's outstanding shares. It is contemplated in addition that, at the time of the Closing, no Participating Plan's investment in Newco stock would exceed 1% of such Plan's overall assets.

16. The Stockholders' Agreement restricts the sale, assignment, transfer, pledge or other disposition of any interest in any shares of Newco's stock by any stockholder of Newco to the specific terms of the Agreement. The Stockholders' Agreement provides that certain of these restrictions will terminate on the third anniversary of the Closing. In particular, the limitation of Participating Plans' selling shares of Newco stock only during Offer Periods and only to a limited group of specified persons, and the restrictions on sales of Newco stock by Newco, shall terminate on the third anniversary of the Closing. The other restrictions on transferability (e.g., the limitations relating to maximum ownership by any stockholder of Newco) will expire not later than the fifth anniversary of the Closing.

17. As a prerequisite to the Reorganization, at least 66⅔% of the outstanding units in RSSI owned by the Participating Plans must be voted in favor of the Reorganization and the Stockholders' Agreement. That approval would be solicited pursuant to a registration/proxy statement of Newco and RSSI which describes in detail the purposes and effects of the Reorganization. Any Participating Plan not in favor of the Reorganization may exercise its inherent right to sell its units in RSSI prior to the closing and thus to sever its relationship with RSSI and have its assets managed elsewhere.

18. All decisions with respect to the purchase, sale and voting of Newco stock held by a Participating Plan (either in RSSI's trust or in a separate trust maintained by the Participating Plan) will be made by a Plan fiduciary independent of Newco. Such Plan fiduciary will either be a single employee (usually an officer) or a committee of selected employees of the sponsor of the Participating Plan. To ensure that the Plan fiduciary is independent of Newco, the Participating Plans and their respective sponsors will bar any employee or officer of the Plan sponsor who is also a director of Newco form participating directly or indirectly in the decision-making process. Of the approximately 130 Plan sponsors which invest their Plan assets in RSSI, it is estimated that at most five of those sponsors may have an employee who is a director of Newco.

19. The applicants represent that a Participating Plan will not buy Newco shares from or sell Newco shares to any fiduciary with respect to such Plan, except that Newco may redeem shares from the Newco Stock Fund, and a member of Newco's management may buy Newco stock from a Participating Plan during one of the Offer Periods. The applicants reaffirm that in each of those two cases, the Participating Plan's decision to sell shares will be made by a fiduciary independent of Newco and the manager involved in the transaction.

20. Neither RSSI nor any Participating Plan will be required to enter into any service agreement with Newco, and any decision by a Participating Plan to enter into a service agreement with Newco will be made by a Plan fiduciary independent of Newco. The Participating Plans (and their respective sponsors) will preclude any Plan fiduciary who is also a director of Newco from participating directly or indirectly in this decision.[2]

21. The sales price of Newco stock at the Closing would equal the fair market value as determined by Merrill Lynch Capital Markets (MLCM). MLCM is a business unit of Merrill Lynch, Pierce, Fenner & Smith, Inc., which is the broker-dealer subsidiary of Merrill Lynch & Co., Inc. MLCM engages in various investment banking activities. RSSI and Newco have no affiliation with MLCM or its affiliates, and none of RSSI's funds owns any securities in Merrill Lynch & Co., Inc.

22. MLCM has presented to RSSI's Board of Trustees, which has accepted, a preliminary report on the Reorganization, which includes a draft of MLCM's option on the fairness of the Reorganization, a valuation of the operating assets and business to be transferred to Newco and of the fair market value of the Newco stock to be allocated to the accounts of the Participating Plans. MLCM's preliminary report states a "going concern" value for Newco of between $4,242,000 and $5,184,000. MLCM calculated this range of "going concern" values by using a formula which resulted in a "going concern" value of $4,713,000. MLCM then converted this number into a range of values by using 110% of this number as the upper limit of the range and 90% of this number as the lower limit of the range. The Stockholders' Agreement will provide that the sales price of Newco stock at the Closing will equal the fair market value of the shares. The fair market value of the the shares will be determined by dividing the "going concern" value determined by MLCM by the number of shares issued and outstanding. If MLCM determines the "going concern" value of Newco to be within a range of values, then the midpoint of the range will be used to calculate the per share price of the Newco stock. MLCM's preliminary valuation will be updated prior to any vote of the Participating Plans on the Reorganization. MLCM represents that it has considered the Reorganization, the Stockholders' Agreement, and the financial records of RSSI and has determined that the Reorganization would be fair to the unitholders of RSSI from a financial point of view. The applicants further represent that MLCM or another qualified independent investment banking firm will be engaged to do appraisals of Newco stock for each of the Offer periods, and the price of the stock will be determined accordingly.[3]

[2] In this proposed exemption, the Department is not providing relief for the receipt of fees with respect to services provided by Newco. In this regard, see section 408(b)(2) of the Act.

[3] MLCM represents that in performing its valuation of Newco stock, its procedures conformed to the requirements of section 3(18) of the Act and the proposed regulations promulgated thereunder. In addition, MLCM represents that for all future valuations of Newco stock, MLCM's procedures will satisfy the requirements of the Department's proposed regulation, in particular proposed

Continued

23. After the third anniversary of the Closing, Participating Plans may sell shares of Newco at any agreed-upon price to any person who agrees to become a party to the Stockholders' Agreement. It is possible at this time that a limited market for Newco stock may develop and that such market would influence, or even govern, the price at which any such sales are made. The applicants represent, however, that the determinations of fair market value of Newco stock which Newco is obligated to obtain per the Stockholders' Agreement are more likely to influence the price at which such sales are made. The Stockholders' Agreement provides that as long as Newco is obligated to purchase stock out of the Newco Stock Fund upon the termination of employment of a vested participant in a DC Plan, Newco must ensure that MLCM (or another investment banking firm selected by RSSI) determines a fair market value for the shares of Newco stock. Newco's obligation to ensure continued valuations for these shares will continue for at least five years, barring earlier termination of the Stockholder's Agreement or the sales of all shares of stock in the Newco Stock Fund. Once Newco's obligation to ensure continued valuations ends, the price at which Newco shares are bought and sold will be determined by the then-prevailing market. It is presently contemplated that at the termination of the Stockholders' Agreement, there may be an underwritten public offering by Newco of its shares of common stock. Such an offering would likely result in a public market for Newco's shares of common stock, either on a national securities exchange or on NASDAQ. Such decisions would depend on the economic and business conditions at the time, as well as Newco's financial condition.

24. As of September 30, 1988, RSSI's operating assets had a depreciated book value of approximately $1,839,000. This value is included in the overall net asset value of RSSI's funds of approximately $559 million as of that date. As a result of the transfer of these operating assets to Newco, the dollar value of units held by Participating Plans in RSSI's investment funds would be reduced accordingly. However, since the "going concern" value of the entire business transferred to Newco is, as determined by MLCM, between $4,242,000 and $5,184,000, the Participating Plans will be allocated approximately 250% more value in the form of Newco shares or units in the Newco Stock Fund than they would lose from their accounts by the transfer of the operating assets to Newco.[4] Furthermore, because the Participating Plans will hold common stock in a for-profit organization (as opposed to having that portion of their investment represented by depreciating assets), there is potential for the Participating Plans to realize long-term equity appreciation.

25. In summary, the applicants represent that the proposed transactions will satisfy the criteria of section 408(a) of the Act because: (a) It is anticipated that no Participating Plan will, as of the Closing, have more than 1% of its assets invested in Newco stock; (b) the Reorganization will be undertaken only if 66⅔% of the outstanding units in RSSI owned by the Participating Plans approve it; (c) any Participating Plan not in favor of the Reorganization may exercise its inherent right to sell its units in RSSI prior to the Closing, so the Reorganization will not be forced on any unwilling Plan; (d) the Participating Plans will be allocated Newco shares worth approximately 250% of the depreciated book value of the operating assets of RSSI being transferred to Newco; (e) MLCM, an independent investment banker has determined that the proposed transactions are fair to the Participating Plans, and will determine the fair market value of the Newco stock at the Closing; and (f) MLCM or another qualified independent investment banking firm will determine the fair market value of Newco stock for each of the Offer Periods.

Notice to Interested Persons

Notice will be provided to interested persons within 30 days of the date of publication of notice in the **Federal Register**. Comments are due within 60 days of the date of publication.

For Further Information Contact: Gary Lefkowitz of the Department, telephone (202) 523-8881. (This is not a toll-free number).

regulation section 2510.3-18(b)(4) pertaining to valuation content, unless such requirements are superseded by different requirements set forth in subsequently issued regulations, in which case MLCM will follow such subsequently issued requirements. Furthermore, if an appraiser other than MLCM is retained to perform such valuation, the applicants represent that any contract or agreement with such appraiser will require adherence to Act section 3(18) and the applicable proposed or final regulations promulgated thereunder.

[4] As noted above (see rep. 22), if MLCM determines the "going concern" value of Newco to be within a range of values, then the midpoint of the range will be used to calculate the per share price of the Newco stock.

General Motors Retirement Program for Salaried Employees; General Motors Hourly-Rate Employees Pension Plan; and G.M. Special Pension Plan (Together, the Plans), Located in New York, New York

(Application Nos. D-7814 thru D-7816)

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, shall not apply to the acquisition by the Plans on March 4, 1988, of a limited partnership interest in the Equitable Deal Flow Fund, L.P. (the Fund), the general partner of which is a wholly-owned subsidiary of the Equitable Life Assurance Society of the United States (Equitable), a party in interest with respect to the Plans and a limited partner of the Fund, provided that the terms of the transaction were at least as favorable to the Plans as an arm's-length transaction with an unrelated party.

Effective Date: If the proposed exemption is granted, the exemption will be effective March 4, 1988.

Summary of Facts and Representations

1. The Plans are defined benefit plans which were established to provide retirement benefits for eligible hourly and salaried employees of the General Motors Corporation (GMC) and its subsidiaries. The Plans covered a total of approximately 878,258 participants as of December 31, 1987.

The Plans are funded through several trusts (the Trusts) which are empowered to hold, manage and invest funds to be used for providing benefits under the Plans. The aggregate fair market value of the assets of the Trusts was approximately $30,920,900,000 as of December 31, 1987.

2. The Pension Investment Committee of GMC (the PIC) is a committee established by the Finance Committee of the Board of Directors of GMC (the Finance Committee), the named fiduciary of the Plans. The PIC has been delegated responsibility for allocating funds among trustees and investment managers, determining asset mix in accordance with the broad investment guidelines established by the Finance Committee, and overseeing in-house investing for a portion of the assets of

the Plans. The PIC is comprised of officers of GMC, all of whom are independent of Equitable and its affiliates.

3. The applicant represents that the PIC decided to allocate a portion of the Plans' assets to privately placed debt and equity securities in order to diversify the Plans' assets and take advantage of new investment opportunities which yield a high rate of return. In order to pursue such investments, the PIC directed GMC's in-house investment staff, the Investment Funds Activity Staff, to develop greater access to private market investments. As a consequence, a private market investment group (the PMIG) was created within the Investment Funds Activity Staff.

In the course of pursuing private market investments, members of the PMIG engaged in discussions with Equitable Capital Management Corporation (ECMC). ECMC is a subsidiary of Equitable which actively invests in privately placed mezzanine and other corporate debt and equity securities. The applicant states that ECMC has developed preferential access to investment opportunities in such securities as well as expertise in corporate restructuring by troubled companies. ECMC made available to the Plans the opportunity to invest in the Fund, which ECMC established in 1987 to offer private market investment opportunities to various institutional investors, including employee benefit plans.

4. The Fund is a limited partnership which invests in subordinated debt securities, as well as preferred stock and other equity securities, in connection with leveraged buy-outs and other corporate restructuring transactions. Equitable Managed Assets, L.P. (the General Partner), a wholly-owned subsidiary of Equitable, serves as the general partner of the Fund. ECMC is responsible for the day-to-day management of the Fund.

Equitable and its affiliates have made a capital commitment of $500 million to the Fund. Each new investor in the Fund makes a capital commitment to the Fund. The total projected capital commitments to the Fund, when fully subscribed, are expected to be $1.5 billion. The partnership agreement for the Fund (the Partnership Agreement) states that all partners, whenever admitted to the Fund, share in the Fund's investments. Each partner's allocable share of the Fund's investments is based upon the ratio that such partner's capital commitment bears to the total capital commitments of all partners. As a result, the capital commitment of a new partner determines such partner's sharing ratio in current and future investments (see explanation below in Paragraph 8).

When new partners are admitted into the Fund, a valuation of the Fund's current investments is made by the General Partner pursuant to a valuation methodology established by Arthur D. Little, Inc. (Arthur Little), a qualified, independent financial consultant headquartered in New York, New York. Prospective partners for the Fund are permitted to review the valuation with the General Partner, ECMC, and Arthur Little.

5. The applicant represents that with respect to the valuation of the Fund, there is a thin secondary market for many of the debt securities held by the Fund. This secondary market is usually maintained by the financial institution that assisted the issuer in the placement of the securities. When there is a secondary market for the debt securities, the securities are appraised by the General Partner directly on the basis of the latest available prices on the secondary market. However, if direct price quotations are not available for the debt securities, the value of such securities is determined by assigning a value to that portion of the security that is equivalent to a U.S. Treasury Note of the same average maturity and then assigning a value to any residual amount. In a typical case, the residual value is the spread between the yield on the debt security over the applicable U.S. Treasury rate. In addition, an adjustment is made to the valuation which takes into account available price quotations on similar debt securities as well as changes in general economic conditions which affect the value of such securities. For example, if a change occurs with respect to high yield bonds, as determined by reference to the Salomon Spread Analysis for High Yield Bonds, a corresponding change is made to the value of the debt security.

The applicant represents further that with respect to the valuation of equity securities held by the Fund, such securities are not traded on the secondary market and are appraised by the General Partner on a residual basis pursuant to which the total value of the portfolio company is determined by using a multiple of projected earnings. Such multiple is based on the multiple of earnings at which the securities were initially acquired, adjusted for subsequent developments in the public securities markets. The face value of the outstanding debt securities of the portfolio company is substracted from the total value of the portfolio company and the residual value, if any, is attributed to the equity securities.

6. The applicant states that members of the PMIG reviewed ECMC's private market investment operations as well as the existing investments of the Fund. In addition, the PMIG analyzed the valuation of the Fund and its securities, the performance of the portfolio companies and the impact of such performance and general economic conditions upon the value of the Fund's investments. Members of the PMIG made suggestions for improving the Fund's methodology for valuing the investments, which were agreed to by the parties. Thereafter, the PMIG recommended to the PIC that the Plans invest in the Fund because such a transaction would provide the Plans with an opportunity to further diversify their assets in investments which yield a high rate of return.[5]

7. Arthur Little evaluated the securities portfolio of the Fund on February 22, 1988, at the direction of the General Partner and ECMC, to establish the value of the Fund's investments for the purpose of admitting new partners, including the Plans. The evaluation process involved the following: (1) An analysis of the securities of each company held by the Fund to determine whether changes in the ratings of the securities assigned by ECMC were merited based on events that had occurred between the valuation date and the date such securities were acquired by the Fund; (2) a determination of the changes in the market value of an index of debt securities that contained securities with similar assigned ratings, which were used by ECMC to value the Fund's debt securities; (3) a determination of changes in price-earnings ratios of an index of equity securities which were believed to be representative of the overall market for such securities, for purposes of valuing the Fund's equity

[5] The Department notes that section 404(a)(1) of the Act requires, among other things, that a fiduciary of a plan must act prudently, solely in the interest of the plan's participants and beneficiaries, and for the exclusive purpose of providing benefits to participants and beneficiaries, when making investment decisions on behalf of a plan. In order to act prudently in making investment decisions, plan fiduciaries must consider, among other factors, the availability, risks and potential return of alternative investments for the plan. Thus, a particular investment by a plan, which is selected in preference to other alternative investments, would generally not be prudent if such investment involved a greater risk to the security of plan assets than such other investments offering a similar return. In this proposed exemption, the Department expresses no opinion as to whether the investment by the Plans in the Fund satisfied the requirements of section 404(a)(1) of the Act.

securities; and (4) the aggregation of the individual values for all the Fund's securities to calculate the total value of the Fund. Based on the analysis of each portfolio company in the Fund and the provisions made for changes in the value of the overall debt and equity securities markets, Arthur Little concurred with the value assigned to the Fund's portfolio by the General Partner and ECMC on February 22, 1988.[6]

8. Prior to March 1, 1988, the Fund had capital commitments totalling $712,121,212 and investments valued at approximately $600,143,951. On March 1, 1988, two state pension funds with an aggregate capital commitment of $106,616,096 were admitted as additional partners in the Fund. At the request of the Plans, the General Partner agreed to preserve the most recent valuation, adjusted for accrued and unpaid interest or original issue discount on the Fund's investments, until March 4, 1988, to allow the Plans an opportunity to invest in the Fund on that date. On March 4, 1988, the Plans made a capital commitment of approximately $136,892,071 to the Fund, and the other partners increased their capital commitment by $17,345,942, making the total capital commitments to the Fund approximately $974,052,251. The Plans' capital commitment was approximately 14% of the total capital commitments of all partners immediately after the closing on March 4, 1988. On the same date, the Plans were required to make a capital contribution to the Fund of $96,903,900, in order to acquire an approximately 14% interest in the current investments of the Fund, which were valued at approximately $600 million. The amount contributed by the Plans on March 4, 1988, included the Plans' share of the cost of the Fund's pre-existing investments, plus the appreciation of such investments from the date of acquisition until the date of the Plans' admittance to the Fund. The amount contributed by the Plans also included their proportionate share of the Fund's expenses.

Coincidentally with the Plans' investment in the Fund, the pre-existing partners of the Fund, including Equitable and its affiliates, withdrew their proportionate share of the Plans' captial contribution, in accordance with the Partnership Agreement. Equitable and its affiliates withdrew $65,137,088 of the Plans' $96,903,900 cash contribution to the Fund. The applicant states that under the Partnership Agreement, this contribution and withdrawal was treated for federal income tax purposes as a sale of a portion of the partnership interests of the pre-existing partners in the Fund to the Plans.

9. Donaldson, Lufkin & Jenrette Securities Corporation (DLJ), a wholly-owned subsidiary of Equitable, provides brokerage services to the Plans. Therefore, the applicant states that DLJ was a party in interest with respect to the Plans on March 4, 1988 as a service provider to the Plans. As a result, Equitable was a party in interest with respect to the Plans, by reason of its ownership of DLJ, at the time of the transaction. However, the applicant states that neither Equitable nor its affiliates possessed any authority or control over the assets of the Plans at the time of the transaction, nor did Equitable or its affiliates render any particularized investment advice to the Plans' fiduciaries regarding an investment in the Fund or any other investment. In addition, the applicant states that the Fund was not a party in interest under the Act by reason of the partnership interests in the Fund owned by Equitable and its affiliates. Therefore, the applicant is requesting an exemption for the initial capital contribution by the Plans to the Fund because Equitable, a party in interest with respect to the Plans, engaged in an indirect sale transaction with the Plans when the Plans acquired an interest in the Fund.

10. The Plans and the other limited partners of the Fund, including Equitable and its affiliates, have made additional capital contributions to the Fund pursuant to their aggregate capital commitment. As a limited partner in the Fund, the Plans are not liable for any amounts beyond the value of their interest in the Fund and the unpaid balance of their capital commitment. The Plans are also not liable to make any loans or other extensions of credit to the Fund because, under the Partnership Agreement, the Fund is not permitted to borrow or otherwise incur indebtedness.

The applicant represents that the Plans' additional capital contributions to the Fund are not prohibited transactions under the Act because such transactions are not a sale of the partnership interests of the pre-existing partners in the Fund to the Plans. The applicant states that additional capital contributions to the Fund by the Plans, or any of the other partners of the Fund, do not result in the displacement of the Fund's partners from a portion of their share of the Fund's investments. Therefore, Equitable and its affiliates have not received and will not receive any portion of such additional capital contributions made by the Plans. All additional capital contributions to the Fund by existing partners of the Fund are used to acquire new investments for the Fund's portfolio.[7]

11. The General Partner and ECMC have undertaken to operate the Fund as a venture capital operating company (VCOC) and to acquire management rights over existing portfolio companies. The Partnership Agreement generally restricts the type and amount of investments by the Fund to eligible investments of a VCOC. The applicant represents that the Fund has satisfied all the requirements necessary to be considered a VCOC under the Department's "plan asset" regulation.[8] Thus, the applicant asserts that the Fund is not considered to hold "plan assets" as a result of the investment by the Plans, or any other benefit plan investors, in the Fund. Accordingly, the applicant states that the assets of the Plans are considered to consist solely of the partnership interest held by the Plans and are not considered to extend to any interest in the underlying securities held by the Fund.[9]

12. In summary, the applicant represents that the transaction met the statutory criteria of section 408(a) of the Act and section 4975(c)(2) of the Code because: (a) The Plans purchased a limited partnership interest in the Fund under the same terms and conditions that existed in other transactions with the Fund involving unrelated parties; (b) the valuation of the Fund's investments, which determined the amount of the Plans' capital commitment and initial cash contribution for acquiring approximately a 14% interest in the fund, was conducted pursuant to a valuation methodology established by Arthur Little, an independent, qualified financial consultant; (c) Arthur Little evaluated the securities portfolio of the

[6] The applicant represents that neither the General Partner nor ECMC was a party in interest with respect to the Plans at the time of the valuation of the Fund for the purpose of admitting the Plans as new partners. In addition, the applicant states that neither the General Parnter nor ECMC is a party in interest under the Act as a result of the investment by the Plans in the Fund (see Paragraph 11 herein).

[7] The Department is expressing no opinion as to whether additional capital contributions by the Plans to the Fund would be a prohibited transaction under the Act and is not providing any exemptive relief herein for such transactions.

[8] See 29 CFR 2510.3-101(d).

[9] The Department expresses no opinion in this proposed exemption as to whether the Fund qualifies as a VCOC. In this regard, the Department is providing no exemptive relief herein for the selection of, or the provision of services and fees to be received by, the General Partner, ECMC, or any other affiliate of Equitable. Further, the Department notes that in making a decision to invest in a VCOC, plan fiduciaries should consider, among other factors, that the fiduciary responsibility provisions of the Act do not apply to the operation of a VCOC.

Fund on February 22, 1988, at the direction of the General Partner and ECMC, and concurred with the value assigned to the Fund's portfolio by the General Partner and ECMC; (d) the valuation methodology was reviewed and approved, prior to the Plans' acquisition of a partnership interest in the Fund, by the Plans' fiduciaries, all of whom were independent of Equitable and its affiliates; and (e) the Plans' fiduciaries determined, based on an analysis of ECMC's private market investment operations, that the transaction was in the Plans' interest because it provided the Plans with an opportunity to further diversify their assets in investments which yield a high rate of return.

For Further Information Contact: Mr. E.F. Williams of the Department, telephone (202) 523–8883. (This is not a toll-free number.)

Newell Clinic Association Self-Employed Profit Sharing Plan (the Plan), Located in Chattanooga, Tennessee

(Application No. D–8190)

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471 April 28, 1975). If the exemption is granted the restrictions of sections 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of sections 4975(c)(1) (A) through (E) of the Code shall not apply to the proposed purchase of two adjacent parcels of undeveloped real property (the Properties) from Dr. Edgar Akin (Dr. Akin), a party in interest with respect to the Plan, by his account under the Plan, provided the aggregate purchase price is no less than the aggregate fair market value of the Properties on the date of the purchase.

Summary of Facts and Representations

1. The Plan is a profit-sharing plan which permits each Plan participant to control the investment of the vested portion of his account under the Plan. In this regard, the Plan requires the Plan trustee to segregate any portion of the Plan's assets subject to the management of a Plan participant into one or more separate accounts, to charge any expenses related to investments directed by such participant against his accounts, and to credit all investment income or losses on investments in such separate accounts to such separate accounts only. The Plan states that these separate accounts shall not share in any income of the Plan's remaining assests. As of August 21, 1989, the Plan covered approximately 15 participants, including Dr. Akin, who is a partner in the partnership maintaining the Plan. As of June 30, 1989, Dr. Akin's account balance under the Plan amounted to $303,734.10, and since that date a contribution in the amount of $24,528 has been added to his account, which is fully vested.

2. In June of 1987, Dr. Akin purchased the Properties, which are two parcels of undeveloped real property. It is represented that at that time, Dr. Akin did not realize that the Plan provided for directed investments and that had he been aware of this feature, he would have instructed the Plan trustee to acquire the Properties directly as an investment for his account under the Plan. The Properties are lots 4 and 5 of the Stonehenge Subdivision, lcoated on Stonehenge Drive in Chattanooga, Tennessee.

3. The aggregate fair market value of the Properties was appraised by David E. Uhles, RM (Mr. Uhles) as $78,000 as of October 26, 1989. Mr. Uhles states that he is affiliated with, among others, the American Institute of Real Estate Appraisers, is a former treasurer and vice president of Chapter 147 of the Society of Real Estate Appraisers, and has experience since 1972 in real-estate appraisal services and sales. He states that he sold a lot to Dr. Akin in 1974 and has appraised residential properties for him since then but that he has no other relationship to Dr. Akin. Mr. Uhles further states that less than one percent of his yearly gross income since 1986, when he started his own business, has been derived from his business with Dr. Akin.

4. It is proposed that to purchase the Properties, Dr. Akin's account under the Plan will pay the purchase price in a cash lump sum on the date of the purchase and that the purchase price will equal the aggregate fair market value of the Properties as of the date of the purchase. Based on the appraisal described in the preceeding paragraph, the estimated purchased price will be $78,000. However, the applicant states that before the purchase is consummated, Mr. Uhles will be contacted to determine if the aggregate fair market value of the Properties has changed between October 26, 1989, the date of Mr. Uhles' appraisal, and the date of the actual purchase. The applicant represents that the Plan will not pay any commissions or other expenses in effecting the proposed purchase.

5. In summary, the applicant represents that the proposed transaction satisfies the exemption criteria set forth in section 408(a) of the Act because: (a) The proposed purchase price will equal the aggregate fair market value of the Properties as of the purchase date; (b) the aggregate fair market value of the Properties as of October 26, 1989 has been determined by a qualified unrelated appraiser who will determine whether such value has changed as of the date of the actual purchase; (c) no commissions or other selling expenses will be charged to the Plan; (d) the proposed purchase will not exceed 25% of the value of Dr. Akin's vested account balance under the Plan; and (e) the only Plan participant affected by the proposed purchase will be Dr. Akin, and he desires the purchase to be consummated.

Notice to Interested Persons: Since the only Plan assets involved in the proposed transaction are those in Dr. Akin's account under the Plan and he is the only participant affected by the proposed transaction, it has been determined that there is no need to distribute the notice of proposed exemption to interested persons. Comments and hearing requests on the proposed exemption are due 30 days after the date of publication of this notice in the **Federal Register.**

For Further Information Contact: Mrs. Miriam Freund of the Department, telephone (202) 523–8194. (This is not a toll-free number.)

Columbia Urological Associates, P.A. Second Restated Money Purchase Plan and Columbia Urological Associates, P.A. Second Restated Profit Sharing Plan (Collectively, the Plans), Located in Columbia, Tennessee

(Application No. D–8136 and D–8137)

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the proposed cash sale (the Sale) of a certain parcel of real property (the Property) located in Columbia, Tennessee by the Plans to James M. Fitts, Jr., M.D. (Dr. Fitts), a party in interest with respect to the Plans,

provided that the consideration paid for the Property is not less than the greater of either the sum $9,500 or the fair market value of the Property on the date of the Sale.

Summary of Facts and Representations

1. The Plans are a money purchase plan and a profit sharing plan with each having six participants and total assest of $213,365.08 and $229,408.08, respectively, as of August 18, 1989. The fair market value of the Property represents approximately two percent of the total assets. Dr. Fitts is the fiduciary for the Plans with discretionary authority and responsibility for the investments of the Plans. The location of the Plans is 1407 Hatcher Lane in Columbia, Tennessee.

2. The sponsoring employer (the Employer) of the Plans, a professional association performing certain medical services, is owned by Dr. Fitts, who is the applicant (the Applicant) for the proposed exemption. The clinic facilities of the Employer are located upon real property which abuts upon the Property. The Property is described as a level 35 feet by 50 feet lot which is partially located in an abandoned alley and in the southwest portion of Parcel 29.02 as shown on the Maury County, Tennessee Tax Map 100J–D–100J. It is shown to have no access to a street except through or over adjacent properties owned by either the Applicant or unrelated persons. A determination was made, as of June 8, 1989, that the fair market value of the Property is $8,500 by Mr. G. Ray Porter of Columbia, Tennessee, a qualified, independent appraiser.

3. The Plans purchased the Property from unrelated parties on January 7, 1987, for $5,300 and spent an additional $3,136.61 for the installation of a required new drainage pipe, site preparation, recording the deed, and relocating a telephone cable. During the Plans' ownership of the Property, the Property was neither leased to nor used by a person who is a party in interest with respect to the Plans. The purchase of the Property and the improvements were done in anticipation of acquiring adjacent property and constructing rental facilities which would provide income to the Plans. A change of circumstances experienced by the owners of the adjacent property precluded the purchase of adjacent property, resulting in the Property becoming superfluous to the investment portfolio of the Plans. Because of the location of the Property and the expressed disinterest in purchasing the Property by the adjacent property owners, the Applicant proposes to purchase the Property for cash, paying a premium of 12 percent in excess of the amount expended by the Plans in acquiring and improving the Property.[10] This purchase is to enable the Plans to rid itself of a non-income producing investment and invest the proceeds of the Sale in income producing investments. None of the fees, commissions, or expenses of the Sale will be incurred by the Plans.

4. In summary, the Applicant represents that the proposed transaction satisfies the criteria for an exemption under section 408(a) of the Act because (a) the Sale will be a one-time transaction for cash with no expenses, commissions, or fees incurred by the Plans; (b) the Plan will received in consideration for the Property the greater of either the sum $9,500 or the fair market value of the Property on the date of the Sale as determined by a qualified, independent appraiser; and (c) the Plan will avoid holding a non-income producing asset and will invest the proceeds of the Sale in income producing assets.

For Further Information Contact: Mr. C.E. Beaver of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

Robert L. Larson Contracting, Inc. Employees' Profit Sharing Plan and Trust (the Plan), Located in Kissimmee, FL

(Application No. D–8209)

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the proposed sale by the Plan of a parcel of unimproved real property, for the total cash consideration of $498,000, to Robert L. Larson and Iris D. Larson (Mr. and Mrs. Larson), who are parties in interest with respect to the Plan, provided the amount paid for the Property by Mr. and Mrs. Larson is not less than its fair market value at the time the transaction is consummated.

[10] The Applicant represents that the proposed transaction will not cause a violation of section 415 of the Code.

Summary of Facts and Representations

1. The Plan is a defined contribution plan with 24 participants and net assets of $954,828 as of July 31, 1989. The Plan is sponsored by the Robert L. Larson Contracting, Inc. (the Employer), a closely-held Florida corporation engaged in the manufacture and distribution of corrugated plastic pipe in Kissimmee, Florida. The trustees of the Plan (the Trustees) as well as Plan participants and decisionmakers with respect to Plan investments are Mr. and Mrs. Larson. Mr. and Mrs. Larson also own 100 percent of the common stock of the Employer and both individuals are employees and directors of the Employer.

2. Among the assets of the Plan is a parcel of unimproved and unencumbered real property located in an area of Osceola County, Florida that is zoned for agricultural conservation. The Property is situated approximately one-half mile north of the northern terminus of Bermuda Avenue in Osceola County, Florida and it has the following legal description: "The SE¼ of the SW¼ and the East ½ of the SW¼ of Section 4, Township 25 South, Range 29 East, Osceola County, Florida." The Property consists of a vacant 60 acre tract of pasture land which abuts the corporate limits of Kissimmee, Florida. The Property is not contiguous to any other property owned by Mr. and Mrs. Larson or the Employer.

3. The Plan acquired the Property in its entirety during 1983 from unrelated parties by making a cash payment to the sellers of $216,000. The Trustees represent that the Plan purchased the Property because of its potential for investment appreciation inasmuch as the Property is in close proximity to Walt Disney World. Based upon their knowledge of other property similarly-situated, the Trustees believed that the Property would appreciate greatly in value.

4. Other than paying the acquisition price, the Plan has expended a total of $11,672 since it has owned the Property. Of this amount, the Plan has paid $9,310 in real estate taxes, $1,362 in insurance premiums and $1,000 in appraisal fees. Also since the time of ownership, the Plan has not permitted the Property to be used by or leased to Mr. and Mrs. Larson, the Employer or other parties in interest.

5. Although the Property has appreciated in value at an average annual compounded return of 15 percent, the Trustees do not believe that the Property's development for future use is likely to occur for several years

and then, any future appreciation of the Property may be considered speculative. Consequently, the Trustees state that the Property's income potential may be negligible since the best use of the Property at the present time is either for agricultural use or non-use. The Trustees note further that due to the Property, the Plan's assets are substantially invested in real estate and that such investments must be reduced in order to satisfy the Plan's liquidity and diversification requirements.[11] Thus, in order to achieve these goals, and because Mr. and Mrs. Larson have been the only parties to express an immediate interest in purchasing the Property, Mr. and Mrs. Larson, as the Plan's Trustees, are requesting an administrative exemption from the Department to purchase the Property from the Plan.

6. Accordingly, Mr. and Mrs. Larson will purchase the Property from the Plan, for cash, in the amount of the Property's independently appraised fair market value on the date of sale. As of March 28, 1989, the Property had a fair market value of $498,000 pursuant to an appraisal report of April 17, 1989 that was prepared by Messrs. E. E. Waller, III, M.A.I., S.R.P.A. and Glenn R. Hartpence, Associate, independent appraisers (the Appraisers) who are affiliated with the real estate appraisal firm of Pardue, Heid, Church, Smith and Waller, Inc. of Orlando, Florida. The appraisal will be updated by the Appraisers as of the date of the proposed sale to reflect any increases in the Property's fair market value. In addition, Mr. and Mrs. Larson will pay all fees and attendant costs in connection therewith.

7. To evidence the proposed sales transaction, the Plan and Mr. and Mrs. Larson will enter into a Contract for Sale and Purchase (the Contract). Besides specifying the sales terms noted above, the Contract requires Mr. and Mrs. Larson to make a deposit of $25,000 which will be held in escrow by Key Trust Company of Florida, N.A. (the Trust Company), located in Orlando, Florida.

8. The proposed sales transaction has been reviewed and approved by the Trust Company which will serve as the independent fiduciary on behalf of the Plan. The Trust Company has agreed to undertake the specific duties and make certain representations required by the Department of the independent fiduciary. In this regard, the Trust Company represents that it has subtantial experience under the Act in administering employee benefit plans and that it has no commercial, financial or business relationship with either Mr. and Mrs. Larson or the Employer. Moreover, the Trust Company represents that it understands and acknowledges its duties, responsibilities and liabilities under the Act in serving as a fiduciary with respect of the Plan.

The Trust Company believes the proposed sale of the Property by the Plan to Mr. and Mrs. Larson is in the best interests of the Plan and its participants and beneficiaries because it will: (a) Generate sufficient cash to provide liquidity for anticipated distribution to participants and beneficiaries; (b) provide the Plan with the ability to diversify its assets; (c) allow the cash proceeds to be invested in income-producing assets; (d) eliminate sales commissions and other costs associated therewith since Mr. and Mrs. Larson have agreed to assume these costs; and (e) allow the Plan to avoid potential market fluctuations associated with unimproved real property and long-term holding costs or unrelated business income related to the future sale or development of such Property. The Trust Company also states that in forming its opinion regarding the appropriateness of the proposed transaction it has examined the Plan's overall investment portfolio, considered the liquidity requirements of the Plan, examined the diversification of the Plan's assets in light of the proposed sale and considered whether the proposed sales transaction complies with the Plan's investment objectives and policies.

Besides giving its approval to the proposed sale, the Trust Company will monitor the consummation of the sale to ensure that the transaction proceeds on the terms and conditions proposed herein. The specific powers and duties that will be performed by the Trust Company in connection with the proposed sale are set forth in a Special Trust Agreement which was entered into by the Trust Company, the Employer and the Trustees on March 24, 1989.

9. In summary, it is represented that the proposed transaction will satisfy the statutory criteria for an administrative exemption under section 408(a) of the Act because: (a) The sale will be a one-time transaction for cash; (b) the Plan will not incur the costs, real estate commissions, fees and potential delay in locating a purchaser; (c) the sales price for the Property will be based upon its fair market value as determined by the Appraisers; (d) the Plan's interests in the proposed sales transaction will be represented by the Trust Company, the independent fiduciary, which has determined that the sale, as proposed, will be in the best interests of the Plan and its participants and beneficiaries; and (e) the sale will enable the Plan to satisfy its liquidity needs and diversification requirements thereby permitting the Plan to invest in higher income-yielding or appreciating investment vehicles.

For Further Information Contact: Ms. Jan D. Broady of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified persons from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or

[11] As the result of an audit of the Plan by the Department, certain violations of section 404(a)(1)(B) and (C) of the Act were identified. Specifically, some 80 percent of the Plan's assets were invested in various parcels of real property, all of which were located within a 50 mile radius. To lessen any economic hardship to the Plan as a result of the non-diversification of its real estate-related investments, the Department recommended that the Trustees take appropriate steps to reduce such investments. In subsequent correspondence to the Department, the Trustees agreed to comply with the Department's recommendation to diversify the Plan's assets.

statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 7th day of December 1989.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, Department of Labor.

[FR Doc. 89-29072 Filed 12-12-89; 8:45 am]

BILLING CODE 4510-29-M

NATIONAL SCIENCE FOUNDATION

Materials Submitted for OMB Review

Notice is hereby given of an amendment to materials published in the **Federal Register**, Volume 54, No. 232, page 50293 on December 5, 1989. The change is being made to extend the public response time through February 2, 1990.

Materials Submitted for OMB Review

In accordance with the Paperwork Reduction Act and OMB Guidelines, the National Science Foundation is posting this notice of information collection that will affect the public.

Public Comment: Interested persons are invited to submit written data, views or arguments to: Herman G. Fleming, Reports Clearance Officer, Rm. 208, National Science Foundation, 1800 G Street, NW., Washington, DC 20550, and to: Office of Management and Budget, Paperwork Reduction Project (3145-0058, Washington, DC, 20503), by February 2, 1990. All comments will be available for public inspection in Rm. 208, at the above NSF address between the hours of 9:00 a.m. and 4:00 p.m.

Title: Changes in NSF Proposal Format: Importance of Education and Human Resources; and Importance of Quality of Publications in the Merit Review Process.

Affected Public: Any institution/individual submitting a proposal to the National Science Foundation.

Respondents/Burden Hours: 37,000 respondents. NSF estimates that 120 hours are required to submit a proposal. This information collection will not effect the total amount of time required to submit a proposal. While additional information is being requested, some current collection is being deleted.

1. *Importance of Education and Human Resources.* One established criterion in NSF's merit review of proposals is the effect of the proposed research on the infrastructure of science and engineering. Reviewers are asked to consider the potential of the proposal to improve the quality, institutional distribution, or effectiveness of the Nation's scientific and engineering research, education, and work force. The NSF is particularly concerned about the development of scientists and engineers for the future. To make this more explicit, Principal Investigators (PI) will now be asked to specify the relationship of the project to the education and development of human resources.

2. *Importance of Quality of Publications in the Merit Review Process.* Evaluation of scientific productivity must emphasize quality of published work rather than quantity. To ensure this emphasis, NSF will now limit the number of publications considered in reviewing a grant application.

Changes: (1) Education and Human Resources: A Statement must be included specifying the potential of the proposed research to contribute to the education and the development of human resources in science and engineering at the postdoctoral, graduate, and undergraduate levels. This statement may include, but is not limited to, the role of the research in student training, course preparation, and seminars, particularly for undergraduates. Special effectiveness or achievement in the area of producing professional scientists and engineers from groups presently underrepresented should be described. (2) A complete list of publications for the past five years is no longer required. Biographical Sketches, in addition to data on educational background and career, must now include the following: (a) A list of up to five publications most relevant to the research proposed and up to five other significant research 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 citing prior NSF support. Only the list of ten will be used in merit review; (b) 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; and (3) 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 postdoctoral advisors.

Dated: December 7, 1989.

Herman G. Fleming,

NSF Reports Clearance Officer.

[FR Doc. 89-29023 Filed 12-12-89; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

Biweekly Notice Applications and Amendments to Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law (P.L.) 97-415, the Nuclear Regulatory Commission (the Commission) is publishing this regular biweekly notice. P.L. 97-415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from November 17, 1989 through December 1, 1989. The last biweekly notice was published on November 29, 1989 (54 FR 49125).

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 January 12, 1990 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.

Arizona Public Service Company, et al., Docket No. STN 50-529, Palo Verde Nuclear Generating Station (PVNGS), Unit 2, Maricopa County, Arizona

Date of amendment request: October 13, 1989

Description of amendment request: The proposed amendment would allow a one-time postponement for the following 18-month surveillance tests until the next refueling outage for Unit 2 (currently scheduled for February 1990):

1. Class 1E Diesel Generator and Integrated Safeguards Surveillance Tests. The affected Technical Specification (TS) Surveillance Requirements are: 4.3.2.3, "Engineered Safety Features Actuation System Instrumentation," 4.4.3.1.3, "Pressurizer," 4.5.1.d.2, "Safety Injection Tanks," 4.5.2.e.1 through 4.5.2.e.3, "Emergency Core Cooling System Subsystems," 4.6.2.1.d, "Containment Spray System," 4.6.2.2.d, "Iodine Removal System," 4.6.3.2.a, "Containment Isolation Valves," 4.7.1.2.b, "Auxiliary Feedwater System," 4.7.3.b and 4.7.3.c, "Essential Cooling Water System," 4.7.7.d.2, "Control Room Essential Filtration System," 4.7.8.d.2, "ESF Pump Room Air Exhaust Cleanup System," and 4.8.11.2.d.2, "AC Sources."

2. Station Battery Surveillance Test. The affected TS Surveillance Requirements is 4.8.2.1.d, "DC Sources."

3. Molded Case Circuit Breaker Surveillance Test. The affected TS Surveillance Requirement is 4.8.4.1.a.2, "Containment Penetration Conductor Overcurrent Protective Devices."

The proposed Technical Specification amendment relates to 18 month surveillance requirements that must be performed during plant shutdown and are scheduled to be performed during the second refueling outage. The schedule for the second refueling outage was delayed from September 15, 1989 to February 14, 1990, due to an unplanned outage that extended from March 15, 1989 to June 30, 1989 to address concerns that arose as a result of events at Units 1 and 3. Consequently, compliance with the 18-month interval would require that the plant be shut down for the sole purpose of performing these required surveillance tests. As recognized in Generic Letter 89-14, the safety benefits of a plant shutdown solely to perform surveillance tests is outweighed by the increased risks associated with an unnecessary transient.

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 licensee has evaluated the proposed amendment against these standards and has provided the following discussion:

STANDARD 1 — Involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed Technical Specification change does not involve a significant increase in the probability or consequences of an accident previously evaluated. The proposed change does not alter the current design or operation of the facility. The change allows an extension of certain surveillance intervals to permit performance of surveillance requirements during the next refueling outage currently scheduled to begin on February 14, 1990. The extensions beyond those allowed by Technical Specification 4.0.2.a will not constitute a significant increase over the original test interval as they would constitute an increase of less than 20% of the allowable surveillance interval. Based upon the fact that the proposed changes do not impact the operations of the facility the change would not significantly increase the probability or the consequences of an accident previously evaluated.

STANDARD 2 — Create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed Technical Specification change will not create the possibility of a new or different kind of accident from any accident previously evaluated. Since there are no changes in the way the facility is being operated, the potential for an unanalyzed accident is not created. No new failure modes are introduced by the proposed change. Therefore, the proposed change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

STANDARD 3 — Involve a significant reduction in a margin of safety.

The proposed Technical Specification change does not involve a significant reduction in a margin of safety. The proposed change to extend the time span for certain surveillance requirements to permit their performance during the next refueling outage will not constitute a significant increase (less than a 20% increase) beyond the allowable test interval.

Therefore, the proposed change will not involve a significant reduction in a margin of safety.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis.

Local Public Document Room location: Phoenix Public Library, Business and Science Division, 12 East McDowell Road, Phoenix, Arizona 85004

Attorney for licensees: Mr. Arthur C. Gehr, Snell & Wilmer, 3100 Valley Center, Phoenix, Arizona 85007.

NRC Project Director: George W. Knighton

Carolina Power & Light Company, et al., Docket No. 50-261, H. B. Robinson Steam Electric Plant, Unit No. 2, Darlington County, South Carolina

Date of amendment request: August 4, 1989, and supplemented on November 18, 1989

Description of amendment request: The request would amend the Technical Specifications (TSs) to increase the allowable fuel enrichment in the reactor, the new fuel storage racks and the Spent Fuel Storage Pit from 3.90 weight percent (w/o) to 4.2 plus 0.05 (nominal 4.2) w/o.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a no significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

Carolina Power & Light Company (CP&L) has reviewed the TS change request in accordance with the standards set forth in 10 CFR 50.92 and concluded that this change does not

constitute a significant hazards consideration based upon the following:

1. Operation of the facility, in accordance with the proposed amendment, would not involve a significant increase in the probability or consequences of an accident previously analyzed.

The probability of occurrence of an accident is unaffected by the proposed enrichment change since it does not impact the way in which any systems operate which may be associated with the initiation of a Chapter 15 event. The consequences of any accidents evaluated in the FSAR will not increase, as discussed in the following sections:

Those areas which may be affected by a change in enrichment are the Fuel Pool Heat Load Analysis and those accidents which involve a radiological release to the environment. The heat load analysis is affected by the potential for increased assembly burnup made possible by the higher enriched fuel. Though decay heat is not expressly a function of enrichment, increased enrichment does trend toward increased assembly burnups, and decay heat is a function of burnup. However, the current UFSAR peak rod burnup limit of 50,000 MWD/MTU (corresponding to a batch average of 40,000 MWD/MTU) is unchanged. Therefore, it can be concluded that the increased enrichment will have no impact on the spent fuel pool's heat load.

The radiological impact of operation with higher enriched fuel focuses on the assumed fission product inventory and the currently assumed radiological consequences. In evaluating the consequences of a fuel handling accident (FHA) and non-FHA Chapter 15 events, two areas must be considered: (1) the effect of increased enrichment, and (2) the effects of the increased burnup that the higher enriched fuel can attain.

To evaluate the effects of increased enrichment on the FHA and non-FHA Chapter 15 events, the effect of the higher enrichment on the thyroid and whole body doses must be determined. The increased enrichment will not significantly increase the fission product inventory as compared to an assembly with the same burnup but with a lower enrichment. Therefore, the change to the thyroid and whole body doses will be small and the potential dose increase not significant relative to 10 CFR 100 limits. Since the assembly burnup limits have not changed, as noted above, the radiological consequences of an accident with 4.2 w/o nominal fuel are bounded by the existing calculations in Chapter 15.

2. Operation of the facility in accordance with the proposed amendment would not create the possibility of a new or different kind of accident from any accident previously evaluated.

No new scenarios for new accidents or equipment malfunctions are created. The changes do not result in any changes in systems or fuel handling procedures. Therefore, the proposed changes will not create the possibility for an accident or malfunction of a different type than any previously evaluated in the FSAR.

3. Operation of the facility, in accordance with the proposed amendment, would not involve a significant reduction in a margin of safety.

The applicable margins are related to the radiological impact to the general public and the requirements on subcriticality in the new fuel storage and spent fuel storage racks. The subcriticality requirement for the new fuel rack is that the fuel rack K_{eff} remain [less than] 0.95 with optimum moderation and [less than] 0.95. Although it would be expected that use of higher enriched fuel would result in a small decrease in the margin to the limits, the analyses in support of this amendment request demonstrate that these criteria are met. The radiological impacts presented in the FSAR remain applicable and are well within the guidelines of 10 CFR 100. In addition, a cycle-specific safety evaluation is performed to verify that the fuel as arranged in the final core design continues to meet the acceptance criteria in the existing safety analyses. Therefore, operation in accordance with the proposed amendment does not involve a significant reduction in a margin of safety. In addition, this change closely resembles example [vi] of *Examples of Amendments that are Considered not Likely to Involve Significant Hazards Considerations* ... published in the Federal Register on March 6, 1986: "A change which ... may reduce in some way a safety margin, but where the results of the change are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan".

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 Commission 's 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: Hartsville Memorial Library, Home and Fifth Avenues, Hartsville, South Carolina 29535

Attorney for licensee: R. E. Jones, General Counsel, Carolina Power & Light Company, P.O. Box 1551, Raleigh, North Carolina 27602

NRC Project Director: Elinor G. Adensam

Commonwealth Edison Company, Docket Nos. 50-295 and 50-304, Zion Nuclear Power Station, Unit Nos. 1 and 2, Lake County, Illinois

Date of application for amendment: October 31, 1989

Description of amendment request: The proposed amendment adds limiting conditions of operations and surveillance requirements to the Technical Specifications as required by Generic Letter 83-37 dealing with NUREG 0737 Technical Specifications. The changes consist of the following items:

1) Addition of Containment Pressure (Wide Range), Core Exit Thermocouples, Containment Water Level (Narrow and Wide Range) and Reactor Vessel Water Level (Narrow and Wide Range) Instrumentation to Technical Specification 3/4.8.9, Accident Monitoring Instrumentation, Tables 3/4.8.9-1.

2) Revision of action requirements for inoperable Noble Gas Effluent Monitors in Technical Specifications 3/4.12.3, Radioactive Gaseous Effluent Monitor Instrumentation, Table 3.12-1.

3) Revision of action requirements for inoperable Containment High-Range Radiation Monitors in Technical Specification 3/4.14.1, Radiation Monitoring Instrumentation, Table 3.14-1.

4) Inclusion of control room air temperature limitation into Technical Specification Surveillance Requirement 4.17.1.A.

5) Revision of Post-Accident Sampling Program Administrative Technical Specification 6.2.1.L to include specific requirements of the program.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards determination exists as stated in 10 CFR 50.92(c). A proposed 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 amendment against the standards in 10 CFR 50.92 and has determined the following:

Item 1. This proposed change is being made in accordance with Generic Letter 83-37 which identifies items from NUREG 0737 that are required to be included in our Technical Specifications. The additional instrumentation being added to the Accident Monitoring Instrumentation System i.e.; Containment Pressure (Wide Range), Core Exit Thermocouples, Containment Water Level (Narrow and Wide Range), will provide additional indication to aid in identifying degraded core conditions. The addition of these instruments will enhance response to accidents as evaluated in the Final Safety Analysis Report and thus will not involve a significant increase in the probability or consequences of any accident previously analyzed.

The addition of a control room air temperature limitation in Technical Specification 4.17.1.A will ensure that action is taken to maintain the control room environment habitable for operators during all plant conditions. This change will not

impact on any accident analysis addressed in the FSAR.

Changes to the requirements for inoperable containment high range area radiation monitors, noble gas effluent radiation monitors and steam generator atmospheric relief and safety valves radiation monitors have been made more conservative. They do not impact on any accidents previously analyzed in the FSAR.

Clarification of the Post-Accident Sampling Program is an administrative change and does not affect any accidents previously analyzed.

Item 2. The instruments added to the Accident Monitoring Instrumentation System will be used to improve the identification of plant conditions during and after an accident has occurred. In addition, changes to the Technical Specifications for the radiation monitoring system, control room environmental and post-accident sampling program will enhance overall plant operations. These changes also will not have an effect on the generation of any external event such as earthquakes or tornadoes. Thus, they do not create the possibility of a new or different kind of accident than any previously evaluated for Zion Station.

Item 3. As discussed above, this proposed amendment will upgrade the Accident Monitoring Instrumentation System, Radiation Monitoring System, Control Room Ventilation System and the Post-Accident Sampling Program at Zion Station. Thus, the additional requirements in this proposed amendment increase the margin of safety at Zion Station.

The proposed changes of this amendment are intended to upgrade the requirements of the Accident Monitoring System, Radiation Monitoring System, Control Room Ventilation System and the Post-Accident Sampling Program at Zion Station. Thus, example (ii) is applicable in this instance. Example (ii) states: (ii) A change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications; for example, a more stringent surveillance requirement.

Therefore, since the application for amendment satisfies the criteria specified in 10 CFR 50.92 and is similar to an example for which not significant hazards consideration exists, Commonwealth Edison Company has made a determination that the amendment involves no significant hazards consideration.

The NRC staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Based on this review, the staff therefore determines that the proposed amendment does no involve a significant hazards consideration.

Local Public Document Room location: Waukegan Public Library, 128 N. County Street, Waukegan, Illinois 60085. Attorney to licensee: *Michael I. Miller, Esquire; Sidley and Austin, One First National Plaza, Chicago, Illinois 60603.*

NRC Project Director: John W. Craig

Detroit Edison Company, Docket No. 50-341, Fermi-2, Monroe County Michigan

Date of amendment request: December 22, 1988

Description of amendment request: The proposed amendment revises the Technical Specification (TSs) Section 3/4.8.4.1 - A.C. Circuits Inside Primary Containment. The proposed change deletes four circuits from the TSs. The proposed change supersedes the TS change request of September 25, 1987.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists 10 CFR 50.92(c) for a proposed amendment to a facility operating license. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has submitted the following no significant hazards determination:

1) The proposed change to remove the de-energizing requirements of Items (c), (d), (e) and (f) from Technical Specification 3.8.4.1 does not involve a significant increase in the probability or consequences of an accident previously evaluated. The proposed change deletes spare circuits which do not enter primary containment or connect to containment electrical penetrations. The bases for the technical specification requirement is ensuring containment integrity by protecting the electrical penetration assemblies. Since these circuits no longer enter primary containment or connect to containment electrical penetrations, removal of the requirement to de-energize these spare circuits does not impact any previously evaluated accident as containment integrity is unaffected by these circuits.

The previous loads on Item (c), (d) and (e) have been relocated to circuits which have dual fusing. This is an acceptable alternative to de-energizing the circuits during plant operation because it is consistent with UFSAR design criteria, Section 8.2.1.2.1.5. Thus, there is no significant impact to any previously evaluated accident because the circuit modifications were consistent with design criteria of the UFSAR which has been previously evaluated and accepted. (Subsequent to relocating Item (c)'s loads, the loads which were located inside primary containment were deleted. Therefore, circuit (c) is also not required to be listed in Technical Specifications because it does not penetrate primary containment or connect to containment electrical penetrations. The previous loads on Item (f) did not interface with a primary containment penetration and thus, the circuit was not required to be included in Technical Specification 3/4.8.4.1.).

2. The proposed change to remove the de-energizing requirements of Items (c), (d), (e) and (f) from Technical Specification 3.8.4.1 does not create the possibility of a new or different kind of accident from any accident previously evaluated. As stated in 1) above, these are spare circuits which do not enter primary containment or connect to containment electrical penetrations. The removal of the requirement to deenergize these spare circuits does not create any new accident mode nor change any safety analysis or design basis at Fermi 2.

The modification of circuits required to be in Technical Specification 3/4.8.4.1 was performed in accordance with UFSAR design criteria. This design criteria has been evaluated and accepted for energized penetrations in service during plant operation; thus, the modification of these circuits does not create any new accident mode nor change any safety analysis because the modifications were designed to the existing design basis of Fermi 2.

3. The proposed change to remove the de-energizing requirements of Items (c), (d), (e) and (f) from Technical Specification 3.8.4.1 does not involve a significant reduction in a margin of safety. As stated in 1) above, containment integrity is maintained because the spare circuits no longer enter primary containment or connect to containment electrical penetrations. All modifications on Technical Specification 3/4.8.4.1 required circuits were designed in accordance with existing design criteria for circuits that are required to be energized during normal operation. Additionally, each circuit's modification was evaluated and it was determined that no unreviewed safety question(s) existed.

The staff has reviewed the licensee's evaluation and concurs with it. On the basis of the above consideration, the staff proposes to find that the changes do not involve a significant hazards consideration.

Local Public Document Room location: Monroe County Library System, 3700 South Custer Road, Monroe, Michigan 48161.

Attorney for licensee: John Flynn, Esq., Detroit Edison Company, 2000 Second Avenue, Detroit, Michigan 48226.

NRC Project Director: John Thoma, Acting.

Northeast Nuclear Energy Company, Docket No. 50-245, Millstone Nuclear Power Station, Unit No. 1, New London County, Connecticut

Date of amendment request: November 21, 1989

Description of amendment request: Change Technical Specification 5.5.B to ensure that the K_{eff} of the spent fuel pool is less than or equal to 0.90 if the minimum gadolinium loading in the

spent fuel versus initial U-235 enrichment of the spent fuel is within certain limits.

Basis for proposed no significant hazards consideration determination: The licensee has reviewed the proposed change in accordance with 10 CFR 50.92 and has concluded, and the NRC agrees, that it does not involve a significant hazards consideration in that this change would not:

1. Involve a significant increase in the probability or consequences of an accident previously analyzed. There are no design basis accidents adversely affected due to this proposed change. The new proposed figure is fully consistent with the analyses previously provided to the NRC Staff supporting the Millstone Unit No. 1 spent fuel pool reracking submitted June 24, 1988 (Reference 1). Criticality in the fuel pool will be precluded as long as enrichment and gadolinium loadings meet the requirements of the proposed figure. Thus, there is no increase in the probability of a criticality event. In addition, since criticality is precluded, consequences are also not adversely affected.

2. Create the possibility of a new or different kind of accident from any previously analyzed. Since there are no changes in the way the plant is operated, the potential for an unanalyzed accident is not created. No new failure modes are introduced. Bundled and storage rack design is such that there is no chance for a criticality event in the Millstone Unit No. 1 spent fuel pool. This change also ensures that all future bundles meet the criterion that precludes criticality. Thus, there is no increase in the probability of a new or different kind of accident.

3. Involve a significant reduction in a margin of safety. Since the proposed change does not affect the consequences of any accident previously analyzed, there is no reduction in margin of safety. The proposed change is fully consistent with the analyses previously provided to the NRC Staff in Reference 1 regarding fuel bundle reactivity. Thus, preventing criticality in the Millstone Unit No. 1 spent fuel pool is maintained with no loss of margin.

The spent fuel pool reracking analyses submitted by the licensee on June 24, 1988, were reviewed and approved by the staff in Amendment No. 40 issued November 27, 1989.

Local Public Document Room location: Waterford Public Library, 49 Rope Ferry Road, Waterford, Connecticut 06385.

Attorney for licensee: Gerald Garfield, Esquire, Day, Berry & Howard, Counselors at Law, City Place, Hartford, Connecticut 06103-3499.

NRC Project Director: John F. Stolz

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: November 16, 1989 (Reference LAR 89-14)

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 remove that part of TS 4.0.2 requiring that the combined time interval for any three consecutive surveillance intervals shall not exceed 3.25 times the specified surveillance interval and to modify the associated TS Bases. This change is in accordance with the guidance provided in Generic Letter 89-14, "Line Item Improvements in Technical Specifications - Removal of the 3.25 Limit on Extending Surveillance Intervals."

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 November 16, 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 3.25 extension limitation will not significantly affect equipment reliability and does not affect the probability or consequences of accidents previously evaluated in the FSAR Update. The surveillance interval will still be constrained by the 25 percent interval extension criterion of TS 4.0.2. The risk involved with the alternative to perform 18-month surveillances during plant operation is greater than the risk involved with exceeding the 3.25 limit. When plant conditions are not conducive for the safe conduct of surveillances due to safety systems being out-of-service for maintenance or due to other ongoing surveillance activities, safety is enhanced by the use of the allowance that permits a surveillance interval to be extended.

Therefore, the proposed change does 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 proposed revision to the TS will not result in any physical alteration to any plant system, nor would there be a change in the method by which any safety related system performs its function.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

c. Does the change involve a significant reduction in a margin of safety?

Deletion of the requirement that any three consecutive surveillance intervals shall not exceed 3.25 times the interval will not significantly affect equipment reliability, rather it will reduce the potential to interrupt normal plant operations due to surveillance scheduling. This proposed exemption will allow all surveillance intervals to be constrained by the maximum allowable extension of 25 percent of the specified surveillance interval, which may enhance safety when used during plant operation.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC Staff has reviewed the proposed changes and the licensee's no significant hazards consideration determination and finds them acceptable. Therefore, the Staff proposes to determine that these 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

Philadelphia Electric Company, Docket No. 50-353, Limerick Generating Station, Unit 2, Montgomery County, Pennsylvania

Date of amendment request: November 3, 1989

Description of amendment request: The proposed amendment would revise the Technical Specifications (TS) in response to NRC Generic Letter (GL) 88-06 "Removal of Organization Charts from Technical Specification

Administrative Control Requirements" to: (1) remove the onsite and offsite organizational charts from TS Section 6.2.1 and 6.2.2, respectively and (2) make certain miscellaneous administrative changes in Section 6 of the TSs (Administrative Control) related to revisions to the corporate organization.

GL 88-06 encourages licensees to propose changes to their TS to remove organizational charts from TS and replace them with descriptions of the organizational structure and characteristics which are important to safety. The proposed changes concern the Administrative Controls in Section 6.0, and do not affect any Limiting Conditions for Operation or Surveillance Requirements. The proposed changes in this amendment request are grouped into two categories, Category A and Category B. Category "A" proposed changes involve removing the onsite and offsite organizational charts from TS Sections 6.2.1 and 6.2.2, respectively. These proposed changes are consistent with the guidance provided in GL 88-06. Category "B" proposed changes are five miscellaneous administrative changes. These proposed changes are to: (1) revise paragraph 6.5.2.1 to indicate that the Nuclear Review Board (NRB) reports to and advises the Executive Vice President-Nuclear, (2) revise paragraph 6.5.2.9.C to indicate that NRC audit reports shall be forwarded to the Corporate Officer(s) responsible for the areas audited, (3) revise paragraphs 6.2.3.2 and 6.2.3.4 to reflect title changes and the deletion of the corporate Independent Safety Engineering Group, (4) revise paragraph 6.14.2 to reflect the groups responsible for technical review of the Offsite Dose Calculation Manual and (5) revise paragraph 6.2.2.f by replacing the five specific titles of the superintendents who may authorize deviation from overtime guidelines with a reference to the administrative procedure that is used to designate which personnel are authorized to perform this function.

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 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 provided an analysis of the no significant hazards consideration in its request for a license amendment for each of the proposed changes discussed previously. The staff has reviewed the licensee's analysis of the proposed amendment against the three standards in 10 CFR 50.92 and finds that:

A. The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

Removing the organization charts from TS does not affect plant operation. The proposed changes do not increase or decrease the qualification, experience or training requirements of onsite or offsite Limerick Generating Station (LGS) personnel. The LGS Quality Assurance Program contains detailed organization charts and associated descriptions of responsibilities. Appendix B to 10 CFR Part 50 and 10 CFR 50.54(a)(3) govern changes to the organizations described in the QA Program. In accordance with the requirements of 10 CFR 50.34(b)(6) the applicant's organizational structure is included in the LGS Final Safety Analysis Report, Chapter 13. As required by 10 CFR 50.71(e), the licensee submits annual updates to the FSAR.

The administrative changes involving a position title change, creation of an advisory board, distribution of audit reports, ISEG composition, and elimination of unnecessary review details, do not involve the design or operation of plant hardware or systems. Accidents analyzed remain unaffected by these changes. Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

B. The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

Removing the organization charts from the TS does not affect plant operation. The proposed changes do not increase or decrease the qualification, experience or training requirements of onsite or offsite Limerick Generating Station (LGS) personnel. The LGS Quality Assurance Program contains detailed organization charts and associated descriptions of responsibilities. Appendix B to 10 CFR Part 50 and 10 CFR 50.54(a)(3) govern changes to the organizations described in the QA Program. In accordance with the requirements of 10 CFR 50.34(b)(6) the applicant's organizational structure is included in the LGS Final Safety Analysis Report, Chapter 13. As required by 10 CFR 50.71(e), the licensee submits annual updates to the FSAR.

The administrative changes involving a position title change, creation of an advisory board, distribution of audit reports, ISE&G composition, and elimination of unnecessary review details, do not involve the design or operation of plant hardware or systems. No new modes of operation, changes to setpoints or changes in operating parameters result from this change. Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated.

C. The proposed changes do not involve a significant reduction in a margin of safety.

The removal of the organization charts from TS is accompanied by the addition of requirements for the Limerick organizational structure which are needed to maintain the essential aspects of the material being removed. This will permit the implementation of organizational changes without prior NRC approval provided the change meets these added organizational structure requirements. Consequently, enhancements to the organizational structure, as well as minor administrative changes such as position title revisions, can be implemented promptly upon identification of the need for the change thereby creating a positive impact on safety.

The administrative changes involving a position title change, creation of an advisory board, distribution of audit reports, ISEG composition, and elimination of unnecessary review details, do not involve the design or operation of plant hardware or systems. No new modes of operation, changes to setpoints or changes in operating parameters result from this change. Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The staff has reviewed the licensee's submittal and significant hazards analysis and concurs with the licensee's determination as to whether the proposed amendment involves no significant hazards consideration. Therefore, the staff proposes to determine that the proposed amendment involves no significant hazards consideration.

Local Public Document Room location: Pottstown Public Library, 500 High Street, Pottstown, Pennsylvania 19464.

Attorney for licensee: Conner and Wetterhahn, 1747 Pennsylvania Avenue, NW., Washington, DC 20006

NRC Project Director: Walter R. Butler

Philadelphia Electric Company, Docket Nos. 50-352 and 50-353, Limerick Generating Station, Units 1 and 2, Montgomery County, Pennsylvania

Date of amendment request: November 17, 1989

Description of amendment request: The amendments would change the Technical Specifications for Limerick 1 and 2 to: (a) remove surveillance requirement (SR) 4.1.3.5.b.2 (and the associated footnote) which requires Control Rod Drive (CRD) scram accumulator check valve testing once per 18 months and specifies test acceptance criteria, (b) modify Limiting Condition for Operation (LCO) 3.1.3.5.a.2.a to allow the reactor operator twenty (20) minutes to restart a tripped CRD pump provided that reactor pressure is greater than or equal to 900 psig or if reactor pressure is less than 900 psig, the operator will immediately place the reactor mode switch in the Shutdown position and (c) change the 18 month scram accumulator pressure sensor channel calibration (setpoint), SR 4.1.3.5.b.1.b. from "970 plus or minus 15 psig" to "equal to or greater than 955 psig".

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 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 provided an analysis of no significant hazards considerations with the request for the license amendment. The licensee's analysis of the proposed amendment against the three standards in 10 CFR 50.92 is reproduced below:

1. The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

Three changes have been proposed.

A) Remove SR 4.1.3.5.b.2 which requires CRD scram accumulator check valve testing once per 18 months and specifies test acceptance criteria.

B) Modify LCO 3.1.3.5.a.2.a to allow the reactor operator twenty (20) minutes to restart a tripped CRD pump provided that reactor pressure is greater than or equal to 900 psig. If reactor pressure is less than 900 psig the operator will immediately place the mode switch in the Shutdown position.

C) Change the 18 month scram accumulator pressure sensor channel calibration (septoint), SR 4.1.3.5.b.1:b from "970 plus or minus or 15 psig" to "equal to or greater than 955 psig."

The safety function of the scram accumulator is to assist in control rod insertion when reactor pressure alone is insufficient. The proposed changes do not change the capability of the control rod to perform its safety function and provide proper reactivity insertion within the required time.

Removal of the 18 month leak test specified by SR 4.1.3.5.b.2 does not affect the reliability of the check valves since operability of the scram accumulator check valves is assured by TS Section 4.0.5 which requires that inservice testing of the check valves comply with the ASME Code, Section XI.

The proposed additions to the TS LCO action statement 3.1.5.a.2.a described in (B) above impose additional requirements on operations personnel to prevent plant operation in a condition when the accumulators are required to support the scram function.

Finally, GE SIL 429 Rev. 1 provides a recommendation to change the applicable TS to allow for scram accumulator pressure instrument setpoint drift and thus avoid an unnecessary TS violation. The setpoint we have proposed in accordance with this GE SIL is within the currently allowed range but does not provide an upper limit. An upper limit is unnecessary since any pressure alarm activation above the minimum setpoint value is more conservative than alarm actuation at the minimum setpoint value.

In summary, the proposed will not affect nor change any plant hardware, plant design or plant system operation from that already described in the FSAR. Therefore the proposed changes do not modify or add any initiating parameters that would significantly increase the probability or consequences of any accident previously analyzed.

2. The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

As discussed in (1) above, the design bases of the LGS will remain the same. Therefore, the current FSAR will remain accurate with respect to its discussion of the licensing basis events and its analysis of plant response and consequences. The proposed changes do not affect any equipment nor do they involve any potential initiating events that would create any new or different kind of accident. As such, the plant initial conditions utilized for the design basis accident analyses are still valid.

3. The proposed changes do not involve a significant reduction in a margin of safety.

As discussed in item (1) above, the safety function of the scram accumulator is to assist in control rod insertion when reactor pressure alone is insufficient. The proposed changes do not change capability of the control rod to perform its safety function and provide proper reactivity insertion within the required time.

TS Section 3/4.1.3 requires that any control rod with an inoperable scram accumulator be restored to operable status or be declared as being inoperable and inserted. This requirement is unchanged by the proposed TS changes.

At normal reactor pressure (i.e., greater than 900 psig) reactor pressure alone is sufficient to scram the control rods. The proposed TS allow the plant operator 20 minutes to restore a tripped CRD pump if there is more than one inoperable scram accumulator and reactor pressure is equal to or greater than 900 psig. Control rod scram accumulators and accumulator check valves are required to support the scram function only at reactor pressure less than 600 psig. To prevent approaching the 600 psig limit, the proposed TS require plant operators to immediately scram the reactor if there is more than one inoperable scram accumulator and there is not a CRD pump operating when reactor pressure is less than 900 psig.

The proposed change to the scram accumulator pressure instrument calibration setpoint is within the currently allowed range and is more conservative than the setpoint recommended by GE.

For the reasons stated above the proposed changes do not involve a significant reduction in a margin of safety.

The staff has reviewed the licensee's analysis and agrees with it. Therefore, we conclude that the amendment satisfies the three criteria listed in 10 CFR 50.92(c). Based on that conclusion, the staff proposes to determine that the proposed license amendment involves no significant hazards consideration.

Local Public Document Room location: Pottstown Public Library, 500 High Street, Pottstown, Pennsylvania 19464.

Attorney for licensee: Conner and Wetterhahn, 1747 Pennsylvania Avenue, NW., Washington, DC 20006

NRC Project Director: Walter R. Butler

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 amendment request: December 28, 1988 and supplemented on July 31, 1989 and October 18, 1989.

Description of amendment request: The proposed amendments revise Salem Unit Nos. 1 and 2 Technical Specification Figures 3.4-2 and 3.4-3 and the associated Bases Section. The heatup and cooldown curves are being updated to reflect the changes in reactor vessel material properties as identified from the examination of the surveillance capsules removed from each reactor during the seventh and third refueling

outages of Salem 1 and 2, respectively. The bases section is revised to reflect the use of Regulatory Guide 1.99, Rev. 2 methodology in estimating the radiation embrittlement of reactor vessel materials.

Basis for proposed no significant hazards consideration determination: 10 CFR Part 50, Appendix H requires that a sampling program exist to determine the effect of irradiation on reactor vessel materials. Part of that program requires that if the results of the testing program so indicates, a change to the plant heatup and cooldown curves provided in the Technical Specifications be submitted. The curves are being revised to ensure that the operation of the reactor will not exceed pressure and temperature limits imposed to prevent the potential for fracture of the reactor vessel or components. The curves provided in this submittal reflect the results of the latest specimen analysis. The proposed changes are also consistent with the guidance provided in Generic letter 88-11 and Regulatory Guide 1.99, Revision 2. Instrument uncertainties are being removed from the curves to clarify the actual requirements. Instrument uncertainties in the limits, in addition to other conservatisms, are not required to prevent vessel damage and are not required by the regulations.

The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has analyzed the proposed amendment to determine if a significant hazards consideration exists:

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed changes do not increase the probability of an accident since they are being incorporated to ensure that existing safety limits are not exceeded due to changing conditions in the reactor. The proposed changes are requested so that the results of materials testing is reflected in the operating limits pursuant to the requirements of 10CFR50, Appendix H and Appendix G.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed changes are being made to ensure that the Salem units do not operate such that the potential for a new kind of accident is created (e.g., fracture of the reactor vessel). The proposed changes ensure that the operations remain within acceptable areas governed by previously analyzed areas. The proposed changes do not make a physical change to the facility. Therefore the proposed changes do not create a new or different type of accident from any previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

The results of the surveillance tests indicate that the reactor pressure vessel has adequate toughness for the continued safe operation provided the requested heatup and cooldown limitations are adhered to. The proposed changes ensure that the existing margins of safety are met by modifying operating requirements to reflect the results of specimen capsule analysis. This analysis prescribes what the appropriate heatup and cooldown curves are and accounts for the effects of radiation on reactor vessel materials. Changes to the Bases Section of the Technical Specifications are being made to reflect Salem's compliance with later regulatory guidance regarding specimen analysis. Therefore the proposed changes do not involve significant reduction in a margin of safety.

The staff has reviewed the licensee's submittal and significant hazards analysis and concurs with the licensee's determination that the proposed amendment does not involve a significant hazards consideration. Therefore, the staff proposes to determine that the proposed amendment involves no significant hazards consideration.

Local Public Document Room location: Salem Free Public library, 112 West Broadway, Salem, New Jersey 08079

Attorney for Licensee: Mark J. Wetterhahn, Esquire, Conner and Wetterhahn, Suite 1050, 1747 Pennsylvania Avenue, NW., Washington, DC 20006

NRC Project Director: Walter R. Butler

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 amendment request: August 29, August 31, October 11, and November 14, 1989

Description of amendment request: The proposed amendments would delete from section 6.2.2.g of the Salem 1 and 2 Technical Specifications the requirement that the Operations Manager hold a Senior Reactor Operator (SRO) license. A new section 6.2.2.h would be added specifying that the Operations Manager either hold a SRO license or has held a SRO license for a pressurized water reactor. Also, an asterisked footnote would be added to section 6.3.1 to specify that the Operations Manager either hold a SRO license or has held a SRO license for a pressurized water reactor (PWR).

These proposed amendments were previously noticed (54 FR 38304, dated September 15, 1989) and are being renoticed because of significant revisions at the NRC's request.

Basis for proposed no significant hazards consideration determination: The Operations Department at Salem Generating Station is managed through the Operations Manager, two Operations Engineers and Shift Supervision. Technical Specifications currently require all of these individuals to hold a SRO license.

Current industry guidance on the selection, qualification and training of personnel for nuclear power plants (ANSI/ANS-3.1-1987), allows relaxation of the SRO license requirement for the Operations Manager position, provided certain conditions are met. An individual designated to fill the position of Operations Managers must satisfy one of the following conditions: (1) Hold a SRO license, (2) Have held a SRO license for a similar unit (PWR).

These special requirements ensure that a selected candidate has demonstrated knowledge at the senior operator level, even though he may not hold a SRO license. At Salem, the Operations Department Organization utilizes two Operating Engineers who are normally assigned the responsibility for overseeing the shift activities associated with a given Salem unit. Since the Operating Engineers are required by technical specifications to have a SRO license, the Operations Department licensed personnel (shift supervision and control room operators) are directly managed by an individual holding a SRO license.

The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has analyzed the proposed amendment to determine if a significant hazards consideration exists:

1. Do not involve a significant increase in the probability or consequence of an accident previously evaluated.

An individual selected to fill the Operations Manager position will meet current industry guidance on the selection, qualification and training of personnel for nuclear power plants, as specified in the Technical Specifications. These requirements ensure that any candidate has demonstrated knowledge at the senior operator level.

2. Do not create the possibility of a new or different kind of accident from any previously evaluated.

The lack of a SRO license on the part of the Operations Manager, unlike a procedure or design change, is not a potential new accident precursor.

3. Do not involve a significant reduction in a margin of safety.

The Operations Department licensed personnel (shift supervision and control room operators) will continue to be directly managed by an individual holding a SRO license (Operating Engineer).

Unlicensed candidates selected for the Operations Manager position must meet the education, experience and training requirements of ANSI N18.1-1971 and have held a SRO license for a similar unit (PWR).

Therefore, it may be concluded that the proposed change does not involve a significant reduction in a margin of safety.

The staff has reviewed the licensee's submittal and significant hazards analysis and concurs with the licensee's determination that the proposed amendment does not involve a significant hazards consideration. Therefore, the staff proposes to determine that the proposed amendment involves no significant hazards consideration.

Local Public Document Room location: Salem Free Public library, 112 West Broadway, Salem, New Jersey 08079

Attorney for licensee: Mark J. Wetterhahn, Esquire, Conner and Wetterhahn, Suite 1050, 1747 Pennsylvania Avenue, NW., Washington, DC 20006

NRC Project Director: Walter R. Butler

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 amendment request: September 11, 1989 and November 6, 1989

Description of amendment request: The proposed changes would delete from the Salem Unit 1 Technical Specification LCO 3.1.1.3 which currently specifies a minimum flow of 3000 gpm whenever a reduction in boron concentration is being made. Salem 1 Technical Specification Surveillance 4.9.8 and Salem 2 Technical Specification Surveillance 4.9.8.1 would be revised to replace the minimum RHR flow of 3000 gpm with 1000 gpm. To achieve consistency between Salem 1 and 2 Technical Specifications, Salem 1 LCO and Surveillance Requirements would be renumbered from 3.9.8 and 4.9.8 to 3.9.8.1 and 4.9.8.1, respectively.

Basis for proposed no significant hazards consideration determination: Evaluation of Salem's RHR system revealed that, reducing the RHR flow rate to less than 1800 gpm precludes air entrapment and vortex formation. Further review considered the minimum RHR flow rate necessary to: (1) remove decay heat (2) preclude boron stratification, and (3) provide an adequate flow rate for boron dilution accident concerns.

The potential for boron stratification was evaluated for RHR flow rates greater than 1000 gpm. The basis for preventing boron stratification in the RCS is to minimize the potential for a boron dilution accident. RHR flow rates greater than 1000 gpm ensure that adequate mixing occurs within the RCS. Thus, there is no concern for boron stratification above an RHR flow rate of 1000 gpm.

RHR flow rates should be maintained between 1000 and 1800 gpm when RCS hot leg water level is less than 6 inches above the counterline. Mid-loop operation is not implemented at Salem until at least 72 hours after shutdown. Adequate decay heat removal can be accomplished with less than 1500 gpm RHR flow at this time. The required flow rate decreases further with increased time after shutdown. For hot leg water levels greater than 6 inches above the counterline, flow rates can be extended from 1800 gpm up to 3000 gpm. This is based on vortex considerations.

Deletion of LCO 3.1.1.3 will provide consistency between the Unit 1 and Unit 2 technical specifications. The technical specifications currently require a minimum of at least one reactor coolant pump to be in operation in Modes 1, 2 and 3. In Modes 4, 5 and 6, a minimum of 1000 gpm will be required. Therefore minimum flow requirements will continue to be specified.

The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has analyzed the proposed amendment to determine if a significant hazards consideration exists:

The proposed changes to the Technical Specifications:

1. Do not involve a significant increase in the probability or consequence of an accident previously evaluated.

The Technical Specification requirement to maintain the minimum Reactor Coolant Loop in operation will ensure adequate RCS flow for Modes 1-4. The RHR loop OPERABLE LCO will ensure adequate RHR availability. The minimum RHR flow requirement will be reduced to 1000 gpm in the Technical Specification with further limitations specified in plant procedures. This change will increase the overall reliability of the RHR pumps by addressing vortexing concerns at higher flow rates. Therefore, it may be concluded that the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Do not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change only allows reduced flow rates when the RHR system is in service. The reduced flow rates are justified by analysis and controlled by the Technical Specifications and plant procedures. Since the RHR system will be maintained at a minimum flow rate of 1000 gpm, per Technical Specifications, no new or different accident from any previously evaluated will be created.

3. Do not involve a significant reduction in a margin of safety.

The proposed changes allow a reduction in the minimum RHR flow rate from 3000 gpm to 1000 gpm. Although this results in a reduced capability to remove decay heat and decreases the amount of mixing in the RCS, the minimum flow specified in the Technical Specifications ensures that adequate margin is maintained.

The flow reduction eliminates the potential for air entrapment and vortexing of the RHR pumps due to excessive flow rates. Thereby, increasing the reliability of the RHR pumps, while maintaining sufficient flow to ensure the RHR design requirements are met. Therefore, it may be concluded that the proposed changes do not involve a significant reduction in a margin of safety.

The staff has reviewed the licensee's submittal and significant hazards analysis and concurs with the licensee's determination that the proposed amendment does not involve a significant hazards consideration. Therefore, the staff proposed to determine that the proposed amendment involves no significant hazards consideration.

Local Public Document Room location: Salem Free Public library, 112 West Broadway, Salem, New Jersey 08079

Attorney for licensee: Mark J. Wetterhahn, Esquire, Conner and Wetterhahn, Suite 1050, 1747 Pennsylvania Avenue, NW., Washington, DC 20006

NRC Project Director: Walter R. Butler

Public Service Electric & Gas Company, Docket No. 50-311, Salem Generating Station, Unit No. 2, Salem County, New Jersey

Date of amendment request: September 25, 1989

Description of amendment request: The proposed amendment would modify the present Salem Unit 2 Technical Specification Surveillance interval requirement for Type A containment integrated leak rate testing (ILRT) (4.6.1.2a), from a frequency of 40 plus or minus 10 months to allow a one time test interval of 59 months.

Basis for proposed no significant hazards consideration determination: The proposed change allows a one time test interval of 59 months. The only other alternative is to conduct Type A ILRTs during the 5th and 6th refueling outages on Salem Unit 2. This would violate the technical specification minimum allowed interval between tests (30 months), extend the length of the 5th refueling outage with no appreciable gain in safety and result in the performance of (4) tests within a 10-year inservice period, exceeding the 10 CFR Part 50 Appendix J requirements.

This inconsistency resulted from an NRC recommendation that the licensee perform the first periodic ILRT (Type A test) during Salem 2's first refueling outage. Based on the NRC recommendation, the licensee successfully completed the first periodic ILRT during Salem Unit 2's first refueling outage.

It was recognized at that time that completing the ILRT during the first refueling outage, was at variance with the Technical Specification Surveillance requirement on testing intervals (40 plus or minus 10 months), since only 21 months had elapsed from the date of commercial operation. A waiver was granted to allow a shortened interval for the first ILRT.

The intent of the established testing intervals is to conduct three (3) approximately equal spaced Type A tests within a given 10-year inservice period, the third in conjunction with the 10-year inservice outage. The minimum/maximum values allow for flexibility while maintaining the "approximately equal intervals" concept. Conducting back to back Type A tests is not in-line within this intent.

The two previous Unit 2 Type A tests were completed successfully. There have not been any plant modifications, since the last successful Type A tests, that would adversely affect the test results. Type B and C tests have been completed satisfactorily at the required frequency and are scheduled for completion during the next refueling outage (5th). Demonstrated operability of the associated components and penetrations provides added assurance that the overall ILRT remains satisfactory.

The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has analyzed the proposed amendment to determine if a significant hazards consideration exists:

The proposed change to the Technical Specifications:

1. Does not involve a significant increase in the probability or consequence of an accident previously evaluated. The proposed change does extend the surveillance interval, however, the two (2) previous Unit 2 Type A tests were completed successfully. There have not been any plant modifications, since the last successful Type A test, that would directly affect test, that would directly affect the test results.

Type B and C tests have been completed satisfactorily at the required frequency, and are presently scheduled to be performed during the next refueling outage (5th). Operability of these components and pathways provides added assurance that the Overall Integrated Containment Leakage Rate remains satisfactory.

Therefore, it may be concluded that the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change does not adversely affect the design or operation of any system or component important to safety. No physical plant modifications or new operational configurations result from this change.

Therefore, it may be concluded that the proposed change does not create the possibillty of a new or different kind of accident from any previously evaluated.

3. Does not involve a significant reduction in a margin of safety.

The two (2) previously conducted Type A tests have been completed satisfactorily. Type B and C tests have been completed satisfactorily within the Technical Specification required surveillance interval. No major plant modifications have been implemented or planned for completion this outage that would directly impact Type A test results.

Therefore, it may be concluded that the proposed change does not involve a significant reduction in a margin of safety.

The staff has reviewed the licensee's submittal and significant hazards analysis and concurs with the licensee's determination that the proposed amendment does not involve a significant hazards consideration. Therefore, the staff proposes to determine that the proposed amendment involves no significant hazards consideration.

Local Public Document Room location: Salem Free Public library, 112 West Broadway, Salem, New Jersey 08079

Attorney for licensee: Mark J. Wetterhahn, Esquire, Conner and Wetterhahn, Suite 1050, 1747 Pennsylvania Avenue, NW., Washington, DC 20006

NRC Project Director: Walter R. Butler

Public Service Electric & Gas Company, Docket No. 50-311, Salem Generating Station, Unit No. 2, Salem County, New Jersey

Date of amendment request: September 25, 1989

Description of amendment request: Revise Salem Unit 2 Technical Specification Surveillance Sections 4.7.6.1(b)1, 4.7.7(b)2 and 4.9.12(b)2 to specify the in-place testing acceptance criteria of removal of equal to or greater than 99% of the test medium, in addition to referencing the appropriate sections of Regulatory Guide 1.52, Revision 2, March 1978.

Basis for proposed no significant hazards consideration determination: The proposed change clarifies the in-place testing acceptance criteria for charcoal adsorbers and HEPA filter banks, to preclude an unnecessary plant shutdown due to overly restrictive test criteria. The present wording of the surveillance sections indicates that the test procedures addressed in the specified sections of Regulatory Guide 1.52 should be used to conduct in-place testing. Regulatory Guide Sections C.5.c and C.5.d specify acceptance criteria of: penetration less than 0.05 percent for HEPA filter banks and bypass leakage through charcoal adsorber section less

than 0.05 percent. NRC Generic Letter 83-13 provides clarification of the relationship between the guidance provided in Regulatory Guide 1.52, Revision 2, and ANSI N510-1975, concerning the testing requirements of the HEPA filters and charcoal adsorber units.

Generic Letter 83-13 states that a "0.05 percent value is applicable when a HEPA filter or charcoal adsorber efficiency of 99 percent is assumed, or 1 percent when a HEPA filter or charcoal adsorber efficiency of 95 percent or less is assumed in the NRC staff's safety evaluation (use the value assumed for the charcoal adsorber efficiency if the value for the HEPA filter is different from the charcoal absorber efficiency in the NRC staff's evaluation)."

Salem Generating Station UFSAR specifies that the charcoal filters are designed to absorb at least 90 percent of elemental and methyl iodines contacted at rated flow. The UFSAR goes on to state that HEPA filters remove at least 99 percent of all particles 0.3 micron and larger in size.

The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has analyzed the proposed amendment to determine if a significant hazards consideration exists:

The proposed changes to the Technical Specifications:

1. Do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes, which are administrative in nature, do not impact any accident analysis used to support operation of the Salem Generating Station. Furthermore, the proposed changes do not adversely affect the design or operation of any system or component important to safety. Consequently, the reliability of the performance of plant safety functions is not adversely affected.

The inclusion of the specific in-place testing acceptance criteria, within the associated Technical Specification surveillance section, is requested to clarify the testing criteria.

Therefore, it may be concluded that the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Do not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes do not adversely affect the design or operation of any system or component important to safety. No physical plant modifications or new operational configurations will result from these changes.

Therefore, it may be concluded that the proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated.

3. Do not involve a significant reduction in a margin of safety.

The proposed changes clarify existing Technical Specification surveillance requirements. The changes do not make any physical alterations to the plant and are consistent with previously reviewed and approved Technical Specifications (Salem Unit 1), and Regulatory guidance (Generic Letter 83-13).

Therefore, it may be concluded that the proposed changes do not involve a significant reduction in a margin of safety.

The staff has reviewed the licensee's submittal and significant hazards analysis and concurs with the licensee's determination that the proposed amendment does not involve a significant hazards consideration. Therefore, the staff proposes to determine that the proposed amendment involves no significant hazards consideration.

Local Public Document Room location: Salem Free Public library, 112 West Broadway, Salem, New Jersey 08079

Attorney for licensee: Mark J. Wetterhahn, Esquire, Conner and Wetterhahn, Suite 1050, 1747 Pennsylvania Avenue, NW., Washington, DC 20006

NRC Project Director: Walter R. Butler

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 Amendment request: September 28, 1989

Description of amendment request: The licensee proposed to modify Surveillance Requirement 4.5.2.i to require testing the Residual Heat Removal (RHR) open permissive interlock at 375 psig or greater. The current requirement is to test the open permissive interlock at 580 psig or greater.

Basis for proposed no significant hazards consideration determination: Surveillance Requirement 4.5.2.i requires that the automatic interlock function of the RHR system be verified within seven days prior to placing the RHR System in operation. This is currently done by imposing a test signal corresponding to a reactor coolant pressure of 580 psig or greater and verifying that the isolation valves, RHR1 and RHR2, cannot be opened. The 580 psig corresponds to the setpoint of the automatic closure interlock that has been removed from Unit 1 and will be removed from Unit 2 during the next refueling outage. The setpoint of the open permissive interlock is 375 psig, therefore the reduction in test pressure will more closely match the setpoint of the interlock.

The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has analyzed the proposed amendment to determine if a significant hazards consideration exists:

The proposed change does not involve a significant hazards consideration because operation of Salem Generating Station Units 1 and 2 in accordance with this change would not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated.

Lowering the test signal pressure is a move in a conservative direction. This more adequately tests the OPI [Open Permissive Interlock] and is consistent with the FSAR [Final Safety Analysis Report] which prohibits the operation of the RHR System until reactor pressure is 375 psig and the temperature is 350 degrees F or less.

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated. The open permissive interlock serves the purpose of not allowing the opening of RH1 and RH2 until the reactor pressure drops below the specified setpoint. The proposed change more adequately tests the interlock and therefore could not create the possibility of a new or different kind of accident.

(3) Involve a significant reduction in a margin of safety.

Since the lowering of the test signal pressure is a move in the conservative direction, overall safety has been increased, and the margin of safety as defined in the bases of the Technical Specifications is maintained.

The staff has reviewed the licensee's submittal and significant hazards analysis and concurs with the licensee's determination that the proposed amendment does not involve a significant hazards consideration.

Therefore, the staff proposes to determine that the proposed amendment involves no significant hazards consideration.

Local Public Document Room location: Salem Free Public Library, 112 West Broadway, Salem, New Jersey 08079.

Attorney for licensee: Mark J. Wetterhahn, Esquire, Conner and Wetterhahn, Suite 1050, 1747 Pennsylvania Avenue, NW., Washington, DC 20006.

NRC Project Director: Walter R. Butler.

Public Service Electric & Gas Company, Docket No. 50-311, Salem Generating Station, Units 1 and 2, Salem County, New Jersey

Date of amendment request: October 17, 1989

Description of amendment request: The proposed amendments would revise Salem Units 1 and 2 Technical Specification Surveillance Sections 4.8.2.3.2 (d) and 4.8.2.5.2 (d) to require a design duty cycle (currently 2 hours) load profile service test (simulated emergency loads) or load service test (actual loads) for the 125 volt and 28 volt batteries in lieu of the (8) hour load service test currently specified in the Technical Specifications.

Basis for proposed no significant hazards consideration determination: The licensee is committed to Regulatory Guide 1.129, which endorses IEEE STD-450. IEEE STD-450 describes a recommended procedure for conducting battery service tests. The recommended procedure states in part, "The discharge rate and length should correspond as closely as is practical to the design requirements (battery duty cycle) of the DC system". The proposed change satisfies this requirement by bringing the battery service test in-line with the design requirements. Conducting (8) hour battery capacity service tests does not ensure that the battery is capable of sustaining the DC emergency equipment for the design duty cycle. The (8) hour test utilizes lower discharge current rates than those experienced at the design duty cycle test length which at this time is 2 hours. In addition, the battery manufacturer has recommended battery testing at the design duty cycle rate. The use of simulated emergency loads in lieu of actual loads is consistent with the Westinghouse Standard Technical Specifications Revision 4, previously reviewed and approved by the NRC. The load profile service test will be conducted for the design duty cycle duration at the loading values specified within the surveillance procedure. The actual loading values are established based on battery loading calculations. The Technical Specification Surveillance frequency is unaffected by this modification.

The reduction in battery service test duration from (8) hours to the design duty cycle and the use of simulated emergency loads achieves consistency between the Salem Generating Station Technical Specifications, Salem Generating Station UFSAR and Westinghouse Standard Technical Specifications.

The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has analyzed the proposed amendment to determine if a significant hazards consideration exists:

The proposed change to the Technical Specifications:

1. Does not involve a significant increase in the probability or consequence of an accident previously evaluated.

The proposed changes ensure that the battery surveillance acceptance criteria is based on the battery design duty cycle. An accurate determination of battery capacity, based on design duty cycle, provides assurance that the batteries will fulfill their design function when required.

Therefore, it may be concluded that the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change does not adversely affect the design or operation of any system or component important to safety. No physical plant modifications or new operational configurations result from these changes.

Therefore, it may be concluded that the proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does not involve a significant reduction in a margin of safety.

The margin of safety is maintained, since satisfactory surveillance results will clearly indicate acceptable battery capacity. The proposed change achieves consistency between the surveillance requirements and the component design and does not affect the surveillance frequency. The change does not make any physical alterations to the plant and is consistent with the previously reviewed and approved Westinghouse Standard Technical Specifications.

Therefore, it may be concluded that the proposed change does not involve a significant reduction in a margin of safety.

The staff has reviewed the licensee's submittal and significant hazards analysis and concurs with the licensee's determination that the proposed amendment does not involve a significant hazards consideration. Therefore, the staff proposes to determine that the proposed amendment involves no significant hazards consideration.

Local Public Document Room location: Salem Free Public library, 112 West Broadway, Salem, New Jersey 08079

Attorney for licensee: Mark J. Wetterhahn, Esquire, Conner and Wetterhahn, Suite 1050, 1747 Pennsylvania Avenue, NW., Washington, DC 20006

NRC Project Director: Walter R. Butler

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 amendment request: October 20, 1989

Description of amendment request: The proposed amendments would remove from the Salem 1 and 2 Technical Specifications, Section 4.0.2 and the associated Bases, the limitation that for any 3 consecutive surveillance intervals, the combined time shall not exceed 3.25 times the specified surveillance interval.

Basis for proposed no significant hazards consideration determination: The proposed amendments were submitted in compliance with Generic Letter 89-14 dated August 21, 1989. Removal of the 3.25 limit from Specification 4.0.2 results in a greater benefit to safety than limiting the use of the 25 percent allowance to extend surveillance intervals. This safety benefit is incurred when a surveillance interval is extended at a time that conditions are not suitable for performing the surveillance. Several Technical Specifications require that surveillances be performed during a plant shutdown. When a limit is reached on extending the surveillance interval, a forced plant shutdown to perform these surveillances or a license amendment that defers the performance of the surveillance until the end of the fuel cycle are the only alternatives. A forced shutdown to perform these surveillances is not justified from a risk standpoint to

avoid exceeding the 3.25 limit when exceeding these surveillances is within the 25 percent allowance. Some surveillances are designed to be performed during a refueling outage when the plant is in a desirable condition for conducting these surveillances. The risk of performing some of these surveillances during plant operation is greater than the impact on safety of exceeding the 3.25 limit while using the 25 percent allowance to extend these surveillances. The safety benefit of performing these surveillances during a plant shutdown is that systems do not have to be removed from service at a time that they are required to be operable.

The Commission has provided standards for determining whether a significant hazard consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has analyzed the proposed amendment to determine if a significant hazards consideration exists.

The proposed changes to the Technical Specifications:

1. Do not involve a significant increase in the probability or consequence of an accident previously evaluated.

As stated in Generic Letter 89-14, the removal if the 3.25 limit from Specification 4.0.2 results in a greater benefit to safety than limiting the use of the 25 percent allowance to extend surveillance intervals. Therefore, it may be concluded that the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change does not adversely affect the design or operation of any system or component important to safety. No physical plant modifications or new operational configurations result from this change.

Therefore, it may be concluded that the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does not involve a significant reduction in a margin of safety.

As stated in Generic Letter 89-14, the use of the allowance to extend surveillance intervals by 25 percent can result in a significant safety benefit. This safety benefit is obtained when a surveillance interval is extended at a time when conditions are not suitable for performing the surveillance. The safety benefit of allowing the use of the 25 percent allowance to extend a surveillance interval outweighs any benefit derived by limiting three (3) consecutive surveillance intervals to the 3.25 limit.

Therefore, it may be concluded that the proposed change does not involve a significant reduction in a margin of safety.

The staff has reviewed the licensee's submittal and significant hazards analysis and concurs with the licensee's determination that the proposed amendment does not involve a significant hazards consideration. Therefore, the staff proposes to determine that the proposed amendment involves no significant hazards consideration.

Local Public Document Room location: Salem Free Public Library, 112 West Broadway, Salem, New Jersey 08079

Attorney for licensee: Mark J. Wetterhahn, Esquire, Conner and Wetterhahn, Suite 1050, 1747 Pennsylvania Avenue, NW., Washington, DC 20006

NRC Project Director: Walter R. Butler

Yankee Atomic Electric Company, Docket No. 50-029, Yankee Nuclear Power Station, Franklin County, Massachusetts

Date of amendment request: November 22, 1989

Description of amendment request: The proposed amendment would incorporate into Yankee Nuclear Power Station's Technical Specifications wording from Generic Letter 84-13 which allows the removal of Table 3.7.4.

Basis for proposed no signficant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards 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 an accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee addressed the above three standards in the amendment application. In regard to the three standards, the licensee provided the following analysis:

This change is requested to incorporate into Yankee's Technical Specifications guidance contained in Generic Letter 84-13. The change is classified as administrative in that only the location of the list is modified. All of the other requirements for snubber operability remain in place. As such, this proposed change would not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated. The administrative relocation of the snubber list does not affect plant accident evaluations.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated. The administrative relocation of the snubber list does not affect plant equipment, system, or component evaluations.

3. Involve a significant reduction in a margin of safety. The relocation of the snubber list does not change the determination of snubber operability.

The staff has reviewed the licensee's no significant hazards consideration determination analysis. Based upon this review, the staff believes that the proposed Technical Specification will not endanger the health and safety of the public.

Based upon the discussion above, the staff proposes to determine that the proposed change does not involve a significant hazards consideration.

Local Public Document Room location: Greenfield Community College, 1 College Drive, Greenfield, Massachusetts 01301

Attorney for licensee: Thomas Dignan, Esquire, Ropes and Gray, 225 Franklin Street, Boston, Massachusetts 02111

NRC Project Director: Richard H. Wessman

PREVIOUSLY PUBLISHED NOTICES OF CONSIDERATION OF ISSUANCE OF AMENDMENTS TO OPERATING LICENSES AND PROPOSED NO SIGNIFICANT HAZARDS CONSIDERATION DETERMINATION AND OPPORTUNITY FOR HEARING

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices either because time did not allow the Commission to wait for this biweekly notice or because the action involved exigent circumstances. They are repeated here because the biweekly notice lists all amendments issued or proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the **Federal Register** on the day and page cited. This notice does not extend the notice period of the original notice.

Vermont Yankee Nuclear Power Corporation, Docket No. 50-271, Vermont Yankee Nuclear Power Plant, Vernon, Vermont

Date of amendment request: November 9, 1989

Description of amendment request: The proposed amendment would change the Limiting Conditions of Operation (LCO) for the Uninterruptible Power Supply (UPS) out-of-service time. This change would be from 7-days to 30-days before requiring initiation of a plant shutdown. The UPSs provide power to Certain Low Pressure Coolant Injection (LPCI) valves, and assure power is available in the event offsite power is lost and the diesel fails to function.

Date of Publication of individual notice in **Federal Register:** November 21, 1989 (54 FR 48170).

Expiration date of individual notice: December 21, 1989

Local Public Document Room location: Brooks Memorial Library, 224 Main Street, Brattleboro, Vermont 05301.

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.

Commonwealth Edison Company, Docket No. 50-237 and 50-249, Dresden Nuclear Power Station, Unit No. 2 and 3, Grundy County, Illinois; Docket Nos. 50-254 and 50-265 Quad Cities Station, Unit Nos. 1 and 2, Rock Island County, Illinois

Date of application for amendments: June 12, 1989

Description of amendments: These amendments change the most limiting pathway due to gaseous effluents from an infant via the cow-milk-infant pathway to a child via the inhalation pathway.

Date of issuance: November 28, 1989

Effective date: Implemented within 60 days

Amendment Nos.: 104, 109 for Dresden and 122, 118 for Quad Cities

Provisional Operating License No. DPR-19, for Dresden Unit 2 and Facility Operating License No. DPR-25 for Dresden Unit 3 and Facility Operating Licenses DPR-29 and DPR-30 for Quad Cities Units 1 and 2: These amendments revised the Technical Specification Bases.

Date of initial notice in **Federal Register:** July 26, 1989 (54 FR 31102). The Commission's related evaluation of these amendments is contained in a Safety Evaluation dated November 28, 1989.

No significant hazards consideration comments received: No

Local Public Document Room location: Morris Public Library, 604 Liberty Street, Morris, Illinois 60450 (Dresden) and Dixon Public Library, 221 Hennepin Avenue, Dixon, Illinois 61021 (Quad Cities).

NRC Acting Project Director: Paul C. Shemanski

Commonwealth Edison Company, Docket No. 50-374, LaSalle County Station, Unit No. 2, LaSalle County, Illinois

Date of application for amendment: September 7, 1988, and augmented May 25, 1989, and August 29, 1989

Brief description of amendment: The amendment revised the TS by deleting the specifications added by Amendment 30 to allow installation and use of the Fine Motion Control Rod Drive (FMCRD) during Unit 2, Cycle 2. The test for which the FMCRD was installed has been completed and the FMCRD was removed during the Unit 2 refueling outage that concluded in February 1989. The information contained in the May 25 and August 29, 1989 CECo letters was clarifying in nature and did not affect the staff's previous proposed no significant hazards consideration determination.

Date of issuance: November 28, 1989

Effective date: November 28, 1989

Amendment No.: 53

Facility Operating License No. NPF-18. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** December 30, 1988 (53 FR 53091). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 28, 1989.

No significant hazards consideration comments received: No

Local Public Document Room location: Public Library of Illinois Valley Community College, Rural Route No. 1, Oglesby, Illinois 61348.

Detroit Edison Company, Docket No. 50-341, Fermi-2, Monroe County, Michigan

Date of application for amendment: October 7, 1988.

Brief description of amendment: This amendment revises the Technical Specifications by deleting the requirement to perform response time testing of the High Drywell Pressure actuation of the High Pressure Coolant Injection (HPCI) system. The change eliminates unnecessary operation of the HPCI system and thus enhances overall HPCI system reliability.

Date of issuance: November 27, 1989

Effective date: November 27, 1989

Amendment No.: 45

Facility Operating License No. NPF-43. The amendment revises the Technical Specifications

Date of initial notice in **Federal Register:** April 19, 1989 (54 FR 15827). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 27, 1989.

No significant hazards consideration comments received: No.

Local Public Document Room location: Monroe County Library System, 3700 South Custer Road, Monroe, Michigan 48161.

Detroit Edison Company, Docket No. 50-341, Fermi-2, Monroe County, Michigan

Date of application for amendment: November 15, 1988

Brief description of amendment: This amendment revises the TS to reflect that the previous exemption concerning Oxygen concentration is no longer effective because the period for which the exemption was valid expired May 23, 1988. The application also proposed changes to the TS dealing with accident monitoring instrumentation. These changes will be evaluated under a separate cover.

Date of issuance: November 28, 1989

Effective date: November 28, 1989

Amendment No.: 46

Facility Operating License No. NPF-43. The amendment revises the Technical Specifications.

Date of initial notice in **Federal Register:** May 7, 1989 (54 FR 21305). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 28, 1989.

No significant hazards consideration comments received: No.

Local Public Document Room location: Monroe County Library System, 3700 South Custer Road, Monroe, Michigan 48161.

Duke Power Company, Docket Nos. 50-269, 50-270 and 50-287, Oconee Nuclear Station, Units 1, 2 and 3, Oconee County, South Carolina

Date of application for amendments: July 28, 1987

Brief description of amendments: The amendments revised TS 3.3 by deleting requirements to test redundant components for operability prior to initiating maintenance on any component in the High Pressure Injection System, Low Pressure Injection System, Reactor Building Cooling System, Reactor Building Spray System and Low Pressure Service Water System. Additionally, the amendments deleted expired footnotes from TS 3.7.2, 4.6.4, and 4.18 as well as added a footnote for clarification purposes to TS Table 4.1-2.

Date of issuance: November 29, 1989

Effective date: November 29, 1989

Amendment Nos.: 178, 178, 175

Facility Operating License Nos. DPR-38, DPR-47 and DPR-55. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** April 6, 1988 (53 FR 11369). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated November 29, 1989.

No significant hazards consideration comments received: No.

Local Public Document Room location: Oconee County Library, 501 West South Broad Street, Walhalla, South Carolina 29691

Duquesne Light Company, Docket Nos. 50-334 and 50-412, Beaver Valley Power Station, Unit Nos. 1 and 2, Shippingport, Pennsylvania

Date of application for amendments: January 12, 1989; revision dated August 14, 1989.

Brief description of amendments: The amendments revise specification 3.4.6.1 for each unit to permit both containment atmosphere particulate and gaseous radiation monitors (both are reactor coolant leakage detection instruments) be inoperable for up to 12 hours due to calibration or maintenance activities. They also revise Table 4.3-3 to permit a more flexible calibration schedule for these monitors.

Date of issuance: November 29, 1989

Effective date: November 29, 1989

Amendment Nos.: 147 for Unit 1; 23 for Unit 2.

Facility Operating License Nos. DPR-66 and NPF-73. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 22, 1989 (54 FR 7634), renotice dated October 18, 1989, (54 FR 42857). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated November 29, 1989

No significant hazards consideration comments received: No.

Local Public Document Room location: B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001.

Gulf States Utilities Company, Docket No. 50-458, River Bend Station, Unit 1 West Feliciana Parish, Louisiana

Date of amendment request: June 23, 1989

Brief description of amendment: The amendment added two Gould Type HE43 breakers to Technical Specification 3.8.4.1-1, "Primary Containment Penetration Conductor Overcurrent Protection Devices". These circuit breakers provide primary containment penetration conductor overcurrent protection for circuits providing power to two 480V receptacles in the drywell.

Date of issuance: November 20, 1989

Effective date: November 20, 1989

Amendment No.: 40

Facility Operating License No. NPF-47. The amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 26, 1989 (54 FR 31109). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 20, 1989.

No significant hazards consideration comments received: No.

Local Public Document Room location: Government Documents Department, Louisiana State University, Baton Rouge, Louisiana 70803

Niagara Mohawk Power Corporation, Docket No. 50-220, Nine Mile Point Nuclear Station, Unit No. 1, Oswego County, New York

Date of application for amendment: May 4, 1988

Brief description of amendment: Revises Technical Specification Sections 3.6.2 and 4.6.2 to clarify the surveillance requirements for Average Power Range Monitoring scram and Rod Withdrawal Block instrumentation.

Date of issuance: November 21, 1989

Effective date: November 21, 1989

Amendment No.: 111

Facility Operating License No. DPR-63: Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register:** May 17, 1989 (54 FR 21310). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 21, 1989.

No significant hazards consideration comments received: No

Local Public Document Room location: Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

Northern States Power Company, Dockets Nos. 50-282 and 50-306, Prairie Island Nuclear Generating Plant, Units Nos. 1 and 2, Goodhue County, Minnesota

Date of application for amendments: March 17, 1988

Brief description of amendments: The proposed amendment covers numerous changes throughout the Technical Specifications and changes in support of the human error reduction program at the Prairie Island Nuclear Generating Plant, Unit Nos. 1 and 2. The human error reduction program deals with reducing human errors in all facets of plant operations (both under normal and potential emergency conditions) that could occur by the instruction given in the maintenance areas, operating procedures, and adhering to the requirements of the Technical

Specifications. Changes to the Technical Specifications include the reorganization and standardization of some sections, the addition of action statements for limiting conditions of operation, the removal of ambiguities to reduce the potential for misinterpretations that could lead to human error, and changes to ensure consistency exists throughout the Technical Specifications.

Date of issuance: October 27, 1989

Effective date: 105 days from the date of issuance.

Amendment Nos.: 91 and 84

Facility Operating Licenses Nos. DPR-42 and DPR-60. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: October 21, 1987 (52 FR 39301). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 27, 1989.

No significant hazards consideration comments received: No.

Local Public Document Room location: Minneapolis Public Library, Technology and Science Department, 300 Nicollet Mall, Minneapolis, Minnesota 55401.

NRC Project Director: John Thoma, Acting

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: August 15, 1989 (Reference LAR 89-10).

Brief description of amendments: The amendments revised the Technical Specifications (TS) to delete certain cycle-specific parameter limits from the TS. The revised TS reference the Core Operating Limits Report for the values of those limits.

Date of issuance: October 20, 1989.

Effective date: October 20, 1989.

Amendment Nos.: 45 and 44.

Facility Operating License Nos. DPR-80 and DPR-82: Amendments changed the Technical Specifications.

Date of initial notice in Federal Register: September 6, 1989 (54 FR 37050). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated October 20, 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.

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: August 15, 1989 (Reference LAR 89-09).

Brief description of amendments: The amendments revised the Technical Specifications to (1) allow the use of a temporary source range detector during refueling if one of the two permanently installed excore source range detectors fails, (2) clarify that certain activities, which do not significantly affect core reactivity, are not considered core alterations, (3) require containment closure during movement of the reactor vessel upper internals and head, and (4) allow latching the control rod mechanism shaft to the rod cluster control assemblies and friction testing of individual control rods with one source range detector.

Date of issuance: October 30, 1989.

Effective date: October 30, 1989.

Amendment Nos.: 46 and 45.

Facility Operating License Nos. DPR-80 and DPR-82: Amendments changed the Technical Specifications.

Date of initial notice in Federal Register: September 6, 1989 (54 FR 37049). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated October 30, 1989.

No significant hazards consideration comments received: No.

Local Public Document Room location: California Polytechnic State University Library, Government Documents and Maps Department, San Luis Obispo, California 93407.

Pennsylvania Power and Light Company, Docket No. 50-387 Susquehanna Steam Electric Station, Unit 2, Luzerne County, Pennsylvania

Date of application for amendment: June 23, 1989

Brief description of amendment: This Amendment revised the Technical Specifications to reflect resolutions arrived at in response to NRC Bulletin 88-07 and its Supplement No. 1, related to, "Power Oscillations in Boiling Water Reactors".

Date of issuance: November 22, 1989

Effective date: November 22, 1989

Amendment No.: 60

Facility Operating License No. NPF-14: This amendment revised the Technical Specifications.

Date of initial notice in Federal Register: July 26, 1989 (54 FR 31114). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 22, 1989.

No significant hazards consideration comments received: No

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

Pennsylvania Power and Light Company, Docket No. 50-387 Susquehanna Steam Electric Station, Unit 1, Luzerne County, Pennsylvania

Date of application for amendment: April 12, 1989 as revised June 22, 1989

Brief description of amendment: Technical Specification changes to address thermal hydraulic instability

Date of issuance: November 20, 1989

Effective date: November 20, 1989

Amendment No.: 93

Facility Operating License No. NPF-14: This amendment revised the Technical Specifications.

Date of initial notice in Federal Register: July 12, 1989 (54 FR 29406). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 20, 1989.

No significant hazards consideration comments received: No

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

Portland General Electric Company, Docket No. 50-344, Trojan Nuclear Plant, Columbia County, Oregon

Date of application for amendment: February 6, 1989, as supplemented October 25, 1989

Brief description of amendment: The Amendment revised Technical Specification 3/4.6.1.2 , "Containment Leakage," to exclude applicability of Specification 4.0.2.

Date of issuance: December 1, 1989

Effective date: December 1, 1989

Amendment No.: 156

Facility Operating License No. NPF-1: Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: October 18, 1989 (54 FR 42859). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 1, 1989.

No significant hazards consideration comments received: No.

Local Public Document Room location: Portland State University Library, 731 S. W. Harrison St., Portland Oregon 97207

Public Service Electric & Gas Company, Docket Nos. 50-272 and 50-311, Salem Generating Station, Unit Nos. 1 and 2, Salem County, New Jersey

Date of application for amendments: October 4, 1989

Brief description of amendments: Delayed implementation of Amendments 101 and 78 for Salem 1 and 2, respectively, from October 12, 1989 to prior to startup from the first plant shutdown to Mode 3, Hot Standby.

Date of issuance: November 21, 1989

Effective date: November 21, 1989

Amendment Nos. 104 and 81

Facility Operating License Nos. DPR-70 and DPR-75. These amendments revised the license.

Public comments requested as to proposed no significant hazards consideration: Yes (54 FR 41887) October 12, 1989. The notice provided an opportunity to submit comments on the Commission's proposed no significant hazards consideration determination. No comments have been received. The notice provided for an opportunity to request a hearing (by November 13, 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 amendments is contained in a Safety Evaluation dated November 21, 1989.

Local Public Document Room location: Salem Free Public Library, 112 West Broadway, Salem, New Jersey 08079

Rochester Gas and Electric Corporation, Docket No. 50-244, R. E. Ginna Nuclear Power Plant, Wayne County, New York

Date of application for amendment: August 30, 1989

Brief description of amendment: The amendment modifies the Technical Specifications to reflect an administrative change in title from Vice President, Production and Engineering to Senior Vice President, Production and Engineering.

Date of issuance: November 17, 1989

Effective date: November 17, 1989

Amendment No.: 38

Facility Operating License No. DPR-18: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** September 20, 1989 (54 FR 38767). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 17, 1989.

No significant hazards consideration comments received: No

Local Public Document Room location: Rochester Public Library, 115 South Avenue, Rochester, New York 14610.

Southern California Edison Company, et al., Docket No. 50-206, San Onofre Nuclear Generating Station, Unit No. 1, San Diego County, California

Date of application for amendment: March 20, 1989, as supplemented September 11, 1989.

Brief description of amendment: The amendment revised the following in their entirety: T.S. 3.14, "Fire Protection" and T.S. 4.15, "Fire Protection."

Date of issuance: November 15, 1989.

Effective date: This license amendment is effective the date of issuance and must be fully implemented no later than 30 days from date of issuance.

Amendment No.: 131

Provisional Operating License No. DPR-13. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** May 31, 1989 (54 FR 23324). The September 11, 1989 letter provided supplemental information and did not change our initial proposed determination of no significant hazards consideration. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 15, 1989.

No significant hazards consideration comments received: No comments.

Local Public Document Room location: General Library, University of California, Post Office Box 19557, Irvine, California 92713.

Tennessee Valley Authority, Dockets Nos. 50-259 , 50-260, and 50-296, Browns Ferry Nuclear Plant, Units 1, 2, and 3, Limestone County, Alabama

Date of application for amendment: August 9, 1989 (TS 274)

Brief description of amendments: The changes revise reactor pressure requirements at which the High Pressure Coolant Injection System and Reactor Core Cooling Isolation System must be operable.

Date of issuance: November 24, 1989

Effective date: November 24, 1989, and shall be implemented within 30 days

Amendment No.: 173, 176, 144

Facility Operating License No. DPR-33, DPR-52 and DPR-68: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** October 4, 1989 (54 FR 40934). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated November 24, 1989.

No significant hazards consideration comments received: No

Local Public Document Room location: Athens Public Library, South Street, Athens, Alabama 35611.

Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of application for amendments: May 25, 1989 (TS 89-03)

Brief description of amendments: The amendments modify the Sequoyah Nuclear Plant, Units 1 and 2, Technical Specifications (TSs). The changes revise Tables 3.3-3, "Engineered Safety Feature Actuation System Instrumentation", 3.3-4, "Engineered Safety Feature Actuation System Instrumentation Trip Setpoints", and 4.3-2, "Engineered Safety Feature Actuation System Instrumentation Surveillance Requirements." The changes add requirements for the logic time delays associated with the auxiliary feedwater (AFW) pump automatic suction transfer. Specifically, the new requirements are the following: (1) a "Functional Unit" 6.h is added to each of the above tables to include requirements for the AFW pump suction transfer time delays, (2) the current wording of Table 3.3-3, Action 21, is replaced with a new action appropriate for the AFW pump suction transfer pressure switches and time delays, and (3) the "Action" and "Mininum Channels Operable" columns Table 3.3-3, Item 6.g, are revised to reflect the new Action 21. In addition, the wording of Table 4.3-2, "Functional Unit," Item 6.g, is revised to correct an inadvertent omission from a previous license amendment.

Date of issuance: November 28, 1989

Effective date: November 28, 1989

Amendment Nos.: 129, 116

Facility Operating Licenses Nos. DPR-77 and DPR-79. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 9, 1989 (54 FR 32717). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 28, 1989.

No significant hazards consideration comments received: No

Local Public Document Room location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

NOTICE OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE AND FINAL DETERMINATION OF NO SIGNIFICANT HAZARDS CONSIDERATION AND OPPORTUNITY FOR HEARING (EXIGENT OR EMERGENCY CIRCUMSTANCES)

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Because of exigent or emergency circumstances associated with the date the amendment was needed, there was not time for the Commission to publish, for public comment before issuance, its usual 30-day Notice of Consideration of Issuance of Amendment and Proposed No Significant Hazards Consideration Determination and Opportunity for a Hearing. For exigent circumstances, the Commission has either issued a Federal Register notice providing opportunity for public comment or has used local media to provide notice to the public in the area surrounding a licensee's facility of the licensee's application and of the Commission's proposed determination of no significant hazards consideration. The Commission has provided a reasonable opportunity for the public to comment, using its best efforts to make available to the public means of communication for the public to respond quickly, and in the case of telephone comments, the comments have been recorded or transcribed as appropriate and the licensee has been informed of the public comments.

In circumstances where failure to act in a timely way would have resulted, for example, in derating or shutdown of a nuclear power plant or in prevention of either resumption of operation or of increase in power output up to the plant's licensed power level, the Commission may not have had an opportunity to provide for public comment on its no significant hazards determination. In such case, the license amendment has been issued without opportunity for comment. If there has been some time for public comment but less than 30 days, the Commission may provide an opportunity for public comment. If comments have been requested, it is so stated. In either event, the State has been consulted by telephone whenever possible.

Under its regulations, the Commission may issue and make an amendment immediately effective, notwithstanding the pendency before it of a request for a hearing from any person, in advance of the holding and completion of any required hearing, where it has determined that no significant hazards consideration is involved.

The Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendment involves no significant hazards consideration. The basis for this determination is contained in the documents related to this action. Accordingly, the amendments have been issued and made effective as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the application for amendment, (2) the amendment to Facility Operating License, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment, as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room for the particular facility involved.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects.

The Commission is also offering an opportunity for a hearing with respect to the issuance of the amendments. By January 12, 1990, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above. 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.

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.

Since the Commission has made a final determination that the amendment involves no significant hazards consideration, if a hearing is requested, it will not stay the effectiveness of the amendment. Any hearing held would take place while the amendment is in effect.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 325-6000 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to (*Project Director*): petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

Detroit Edison Company, Docket No. 50-341, Fermi-2, Monroe County, Michigan

Date of application for amendment: November 16, 1989

Brief description of amendment: This amendment revises the Technical Specifications Figure 3.2.3-2, Flow Correction (K_f) Factor. The figure was part of a previous license amendment request dated April 3, 1989, and issued by the NRC as Amendment No. 42 to the Fermi-2 Operating License and was recently found to be in error. Further review of Amendment No. 42 found five other figures should be modified to more clearly show the limits they impose upon plant operation. In addition, some administrative or typographical errors were found in the designation of fuel bundle types in Specification 3.2.4 and in the referencing of new figures in Specification 4.2.3.1. Minor correction to the Bases were also found to be necessary. The November 16, 1989 letter requested that the amendment be processed under the provisions of 10 CFR 50.91(a)(5) as an emergency situation. The bases for the emergency situation is that reactor startup is scheduled for November 20, 1989, and lack of timely action would necessarily prevent resumption of plant operation. The staff has reviewed the bases for the emergency circumstances and concurs that the proposed amendment does fall under the provision of 50.91(a)(5).

Date of Issuance: November 21, 1989

Effective date: November 21, 1989

Amendment No.: 44

Facility Operating License No. NPF-43: Amendment revises the Technical Specifications.

Public comments requested as to proposed no significant hazards consideration: No.

Comments received: No. The Commission's related evaluation of the amendment, finding of emergency circumstances, and final determination of no significant hazards consideration are contained in a Safety Evaluation dated November 21, 1989.

Attorney for licensee: John Flynn, Esq., Detroit Edison Company, 2000 Second Avenue, Detroit, Michigan 48226.

Local Public Document Room location: Monroe County Library System, 3700 South Custer Road, Monroe, Michigan 48161.

NRC Project Director: John O. Thoma, Acting.

Virginia Electric and Power Company, Docket Nos. 50-280 and 50-281, Surry Power Station, Unit Nos. 1 and 2, Surry County, Virginia

Date of amendment request: November 10, 1989

Description of amendment requests: This amendment revises the pressurizer safety valves' 27 one percent setpoint tolerance of Technical Specifications 3.1.A.3.c to minus (-) one percent to plus (+) five percent for the remainder of Cycle 10 for both Surry Units 1 and 2 by replacing the current footnote.

Date of issuance: November 16, 1989

Effective date: November 16, 1989

Amendment Nos.: 135 and 135

Facility Operating License Nos. DPR-32 and DPR-37: Amendments revised the Technical Specifications.

Public comments requested as to proposed no significant hazards consideration: No. The Commission's related evaluation of the amendment, finding of emergency circumstances, consultation with the Commonwealth of Virginia and final determination of no significant hazards consideration are contained in a Safety Evaluation dated November 16, 1989.

Attorney for licensee: Michael W. Maupin, Esq., Hunton and Williams, Post Office Box 1535, Richmond, Virginia 23213.

Local Public Document Room location: Swem Library, College of William and Mary, Williamsburg, Virginia 23185.

NRC Project Director: Herbert N. Berkow

Dated at Rockville, Maryland, this 7th day of December, 1989.

For the Nuclear Regulatory Commission

John A. Zwolinski,

Acting Director, Division of Reactor Projects - III, IV, V and Special Projects Office of Nuclear Reactor Regulation

[Doc. 89-28968 Filed 12-12-89; 8:45 am]

BILLING CODE 7590-01-D

[Docket No. 15000033 General License (10 CFR 150.20) EA 88-265]

Basin Services, Inc., Williston, North Dakota; Order Imposing Civil Monetary Penalty

I

Basin Testing Laboratory, Inc. (licensee) dba Basin Services, Inc., is the holder of North Dakota Materials License No. ND 33-16105-02 issued by the state of North Dakota on January 3, 1985, and due to expire on December 31, 1989. The license authorizes the licensee to possess sealed radioactive sources in radiography devices and to conduct

industrial radiography activities. 10 CFR 150.20 grants the licensee a general license to conduct these activities in Nuclear Regulatory Commission (NRC or Commission) jurisdiction (non-Agreement States).

II

Inspections of the licensee's activities in NRC jurisdiction were conducted on September 1 and October 5–6, 1988. The results of these inspections indicated that the licensee had not conducted its activities in full compliance with NRC requirements. A written Notice of Violation and Proposed Imposition of Civil Penalty was served upon the licensee by letter dated January 19, 1989. The Notice stated the nature of the violations, the provisions of the NRC's requirements that the licensee had violated, and the amount of the civil penalty proposed for the violations. The licensee responded to the Notice of Violation and Proposed Imposition of Civil Penalty by letter dated February 22, 1989. In its response, the licensee admitted that the violations occurred as set forth in the Notice, but requested that the civil penalty be mitigated or retracted.

III

After consideration of the licensee's response and the statements of fact, explanation, and arguments for mitigation contained therein, the Deputy Executive Director for Nuclear Materials Safety, Safeguards, and Operations Support has determined, as set forth in the Appendix to this Order, that the violations occurred as stated and that the penalty proposed for the violations designated in the Notice of Violation and Proposed Imposition of Civil Penalty should be imposed.

IV

In view of the foregoing and pursuant to section 234 of the Atomic Energy Act of 1954, as amended (Act), 42 U.S.C. 2282, and 10 CFR 2.205, it is hereby ordered that:

The licensee pay a civil penalty in the amount of $5,000 within 30 days of the date of this Order, by check, draft, or money order, payable to the Treasurer of the United States and mailed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555.

V

The licensee may request a hearing within 30 days of the date of this Order. A request for a hearing should be clearly marked as a "Request for an Enforcement Hearing" and shall be addressed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555. A copy of the hearing request shall also be sent to the Assistant General Counsel for Hearings and Enforcement, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the Regional Administrator, U.S. Nuclear Regulatory Commission, Region IV, 611 Ryan Plaza Drive, Suite 1000, Arlington, Texas 76011.

If a hearing is requested, the Commission will issue an Order designating the time and place of the hearing. If the licensee fails to request a hearing within 30 days of the date of this Order, the provisions of this Order shall be effective without further proceedings. If payment has not been made by that time, the matter may be referred to the Attorney General for collection.

In the event the licensee requests a hearing as provided above, the issue to be considered at such hearing shall be whether, on the basis of the violations as set forth in the Notice of Violation and Proposed Imposition of Civil Penalty referenced in Section II above, this Order should be sustained.

Dated at Rockville, Maryland, this 6th day of December 1989.

For the Nuclear Regulatory Commission.

Hugh L. Thompson, Jr.,

Deputy Executive Director for Nuclear Materials Safety, Safeguards, and Operations Support.

Appendix—Evaluations and Conclusions

On January 19, 1989, a Notice of Violation and Proposed Imposition of Civil Penalty (Notice) was issued for the violations identified during NRC inspections. Basin Testing Laboratory responded to the Notice on February 22, 1989. The licensee admitted the violations but requested that the proposed civil penalty be mitigated or retracted. The NRC's evaluation and conclusions regarding the licensee's arguments are as follows:

Restatement of Violations

I. Violations Assessed a Civil Penalty

A. 10 CFR 34.31(a)(4) requires, in part, that the licensee shall not permit any individual to act as a radiographer until such individual has demonstrated understanding of the instructions in 10 CFR 34.31(a) by successful completion of a written test and a field examination on the subjects covered.

10 CFR 34.44 requires that whenever a radiographer's assistant uses radiographic exposure devices, uses sealed sources or related source handling tools, or conducts radiation surveys to determine that the sealed source has returned to the shielded position after an exposure, he shall be under the personal supervision of a radiographer. Personal supervision shall include: (1) The radiographer's personal presence at the site where the sealed sources are being used, (2) the ability of the radiographer to give immediate assistance if required, and (3) the radiographer's watching the assistant's performance of the operations referred to in this section.

Contrary to the above, on November 10–14 and November 18 and 19, 1987, at temporary job sites in Wyoming, the licensee permitted a radiographer's assistant, who did not meet the requirements of 10 CFR 34.31(a) and who was not under the personal supervision of a radiographer, to conduct the radiographic operations described in 10 CFR 34.44. Specifically, the radiographer's assistant had not demonstrated understanding of the instructions in 10 CFR 34.31(a) by successful completion of a written test and a field examination on the subjects covered, and was permitted to conduct the radiographic operations listed in 10 CFR 34.44 while not in the presence of, and observed by, a qualified radiographer.

B. 10 CFR 150.20(b)(1) requires, in part, that prior to engaging in activities in non-Agreement States, except as specified in 10 CFR 150.20(c), any person holding a specific license from an Agreement State shall, at least 3 days before engaging in each such activity, file 4 copies of NRC Form 241 (revised) "Report of Proposed Activities in Non-Agreement States" and 4 copies of its Agreement State specific license with the Regional Administrator of the U.S. Nuclear Regulatory Commission Regional Office listed in Appendix D of 10 CFR part 20, for the Region in which the Agreement State that issued the license is located.

Contrary to the above, between 1985 and October 6, 1988, the licensee engaged in licensed activities in non-Agreement States on at least 16 occasions, and did not file any NRC Form 241 with the appropriate Regional Administrator, and the exceptions of 10 CFR 150.20(c) did not apply.

C. 10 CFR 30.9(a) requires, in part, that information provided to the Commission by a licensee be complete and accurate in all material respects.

Contrary to the above, by letter dated October 13, 1988, in response to NRC's inspection findings which had been provided to the president of the company by telephone on October 12, 1988, the licensee's president indicated that the licensee had conducted work on September 12, 1988, in a particular area of North Dakota, an Agreement State. This information was not complete and accurate in all material respects in that the radiography work in question had been conducted on September 12, 1988, in Montana.

These violations have been assessed in the aggregate as a Severity Level III problem. (Supplement VI).

Cumulative Civil Penalty—$5,000 (assessed equally among the violations).

II. Violations Not Assessed A Civil Penalty

10 CFR 71.5(a) requires, in part, that each licensee who transports licensed material outside of the confines of its plant or other place of use shall comply with the applicable requirements of the regulations appropriate to the mode of transportation of the

Department of Transportation in 40 CFR parts 170 through 189.

A. 49 CFR 172.200(a) requires, in part, that except as otherwise provided in subpart C, each person who offers a hazardous material for transportation shall describe the hazardous material on the shipping papers.

49 CFR 172.202(a) requires, in part, that the description of a hazardous material on the shipping paper must include the proper shipping name prescribed for the material in 49 CFR 172.101 or 172.102, the identification number, preceded by "UN" or "NA" as appropriate.

49 CFR 172.203(a) requires, in part, that a description of a shipment of radioactive material must also include a description of the physical and chemical form of the material and the category of label and transportation index.

Contrary to the above, as of October 6, 1988, shipping papers utilized during the transport of industrial radiographic sources containing curie quantities of iridium–192 did not contain any of the above required information.

This is a Severity Level IV violation. (Supplement V)

B. 49 CFR 172.301 requires, in part, that except as provided by this subchapter packaging having a rated capacity of 110 gallons or less shall be marked with the proper shipping name and identification number, preceded by "UN" or "NA", as appropriate, to identify whether the content descriptions are considered appropriate for international shipments as described in 49 CFR 172.101(e).

Contrary to the above, on September 12, 1988, a package which was not excepted by the subchapter (Tech-Ops Model 520 exposure device) was utilized in transport of a sealed source of approximately 67 curies of iridium–192 and the identification number, preceded by "UN" was not included in the package markings.

This is a Severity Level IV violation. (Supplement V)

Summary of Licensee's Response and Request for Mitigation

The licensee admits that the violations occurred as stated in the Notice. However, the licensee states that the civil penalty should be mitigated in accordance with the factors in Section V.B. of the Enforcement Policy. Specifically, the licensee states: (1) That self identification does not apply; (2) that corrective actions were taken to assure future compliance; (3) that Basin's past performance warrants mitigation in that the violations described in the Notice represent the only occasions on which Basin has been accused of violating state or federal requirements; (4) that prior notice is not applicable in that Basin had not previously been notified of alleged violations; (5) that there are not multiple examples of violations with the exception of Basin's failure to file 241 forms; and (6) that the violations were of brief duration with the exception of Basin's failure to file 241 forms.

The licensee also states that none of the violations were intentional, and that the assessment of a civil penalty of $5000 will place a significant financial hardship upon Basin. In addition, the licensee claims that, in accordance with Table 1A. of the Enforcement Policy, Basin should not be assessed a civil penalty because it is properly designated as an industrial user of material having violations classified as "safeguards." In the alternative, the licensee requests that the NRC exercise its discretion under section V.G. of the Enforcement Policy and mitigate or suspend imposition of the proposed civil penalty.

NRC Evaluation of Licensee's Request for Mitigation

In deciding to propose a $5,000 civil penalty for the violations in Section I of the Notice, NRC gave consideration to each of the adjustment factors in section V.B. of the Enforcement Policy, and no adjustment to the base civil penalty was deemed appropriate. NRC views the licensee's comments regarding the policy's adjustment factors in the following way:

1. Identification and Reporting—NRC agrees that this factor is not applicable. Although the revisions to the policy published in October 1988 provide for increasing a penalty if violations are identified by NRC rather than the licensee, the violations that were the subject of this action, while discovered by the NRC, were found prior to the revisions to the policy becoming effective.

2. Corrective Actions to Prevent Recurrence—NRC agrees that, ultimately, the licensee implemented corrective actions to prevent noncompliance. However, we cannot conclude that Basin's corrective actions were prompt. Nor does NRC view Basin's corrective actions as particularly comprehensive. Thus, on balance, NRC sees no basis for any adjustment on the basis of this factor.

3. Past Performance—In terms of compliance with NRC requirements, there was no history of past performance to rely upon since NRC had not previously inspected Basin. Thus, there is no basis for adjustment of the proposed civil penalty based upon this factor.

4. Prior Notice of Similar Events, Multiple Occurrences and Duration—The licensee's reliance upon these factors as a basis for mitigation or retraction of the civil penalty is misplaced, as under the Enforcement Policy these factors are only considered as a basis for escalation of the base civil penalty.

The licensee asserts that none of the violations were intentional, and yet admits, in its response, that is knowingly allowed a radiographer's assistant to conduct radiographic operations. Further, based on an investigation by NRC's Office of Investigations (OI), it appears that the licensee's president "knowingly and intentionally disregarded NRC regulations which he became aware of in June 1988." Thus, based on the above facts, the NRC is unconvinced by the licensee's assertion that none of the violations were intentional, as its actions show willful noncompliance with the NRC's requirements.

NRC's Enforcement Policy states that "it is not the NRC's intention that the economic impact of a civil penalty be such that its puts a licensee out of business (orders, rather than civil penalties, are used when the intent is to terminate license activities) or adversely affects a licensee's ability to safely conduct licensed activities." While Basin states that this civil penalty would place a significant hardship on the company, it provides no evidence to suggest that paying the penalty would result in putting the company out of business or would adversely affect its ability to conduct its activities safely.

The NRC concurs with the licensee's statement that its program is correctly designated as an industrial user of material based on Table 1A. in the Enforcement Policy. However, the violations assessed a civil penalty involve "materials operations," not safeguards, and therefore, the Table 1A. base civil penalty for an industrial user is $10,000. When the factor for Severity Level as indicated in Table 1B. of the Enforcement Policy is considered, the base civil penalty becomes $5000 for the classification of the three violations in the aggregate at Severity Level III.

In regard to the licensee's request that NRC exercise the discretion provided in Section V.G. of the Enforcement Policy, there has not been a basis provided that would warrant the exercise of discretion for these NRC identified willful violations.

NRC Evaluation of Letter dated June 5, 1989 from Licensee's Attorney

Subsequent to the licensee's response of February 22, 1989, the NRC received a letter from the licensee's attorney dated June 5, 1989. This letter contended, among other things, that all of Basin's Level I and Level II operators were, in fact, radiographers and not radiographer's assistants and, therefore, that the licensee did not have any radiographer's assistants conducting radiographic processes, and did not fail to supervise radiographer's assistants. This letter contradicted the licensee's previous sworn admission of Violation I.A. in its February 22 response. Based on a telephone discussion between an NRC Region IV staff member and the attorney on June 30, 1989, the attorney orally withdrew his contentions. Therefore, the NRC has disregarded the contentions in the June 5, 1989 letter.

NRC Conclusion

NRC concludes based on its evaluation of the licensee's response that Basin has not provided an adequate basis for mitigation or retraction of the proposed civil penalty. Consequently, the proposed civil penalty in the amount of $5,000 should be imposed.

[FR Doc. 89–29062 Filed 12–12–89; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 15000033 General License (10 CFR 150.20) EA 88–265]

Basin Testing Laboratory, Inc. dba Basin Services, Inc. Williston, North Dakota; Order To Show Cause Why License Should Not Be Suspended

I

Basin Testing Laboratory, Inc. (licensee) is the holder of North Dakota Materials License No. ND 33–16105–02 issued by the State of North Dakota on

January 3, 1985, and due to expire on December 31, 1989. The license authorizes the licensee to possess sealed radioactive sources in radiography devices and to conduct industrial radiography activities. 10 CFR 150.20 grants the licensee a general license to conduct these activities in Nuclear Regulatory Commission (NRC or Commission) jurisdiction (non-Agreement States).

II

Inspections of the licensee's activities within NRC jurisdiction were conducted on September 1 and October 5–6, 1988. The results of these inspections indicated that the licensee has not conducted its activities in full compliance with NRC requirements. A written Notice of Violation and Proposed Imposition of Civil Penalty was served upon the licensee by letter dated January 19, 1989. Three violations were categorized in the aggregate at Severity Level III and assessed a civil penalty in the amount of $5,000. These involved: (1) Basin's permitting a radiographer's assistant, who had not completed a written test or field examination, to conduct radiographic operations while not in the presence of, and observed by, a qualified radiographer, a violation of 10 CFR 34.44; (2) Basin's failure to have informed NRC of its work in NRC jurisdiction from 1985 to 1988 by filing an NRC Form 241, a violation of 10 CFR 150.20; and (3) Basin's having provided NRC inaccurate information in its initial responses to the NRC's inspection findings, a violation of 10 CFR 30.9. In a February 22, 1989, response, Basin admitted the violations but sought to have the civil penalty mitigated or withdrawn. Based on its evaluation of Basin's arguments for mitigation, NRC is issuing, on the same date as this Order, an Order imposing upon Basin a civil penalty in the same amount as that proposed.

In its February 22, 1989, reply, which was provided as a sworn statement signed by Basin's President, William Cobban, Basin made the following statement in regard to the reason for its failure to have filed an NRC Form 241: "Basin was simply ignorant of the requirement for completing the form 241 prior to conducting activities in non-Agreement States." Because this statement was in conflict with information NRC had obtained from the North Dakota Department of Health regarding its inspections of Basin, NRC Region IV requested NRC's Office of Investigations (OI) to determine whether the company's president made a false statement to the NRC and whether Basin intentionally failed to inform NRC of its activities in non-Agreement States.

In the Report of Investigation 4–89–006, completed in July 1989, OI determined that the President of Basin "knowingly and intentionally disregarded NRC regulations which he admitted he became aware of in June 1988." OI also determined that the previously mentioned statement in Basin's February 22, 1989, reply to NRC was false respect to licensed activities Basin conducted in non-Agreement States after June 1988 but before NRC's inspections in September and October 1988. The basis for OI's findings is that Basin was informed during an inspection by the North Dakota Department of Health in June 1988 and in July 1988 in a written inspection report that it had an obligation to notify NRC of its then-current activities in Wyoming, a non-Agreement State, an obligation with which Basin did not comply.

In addition, the licensee at the Enforcement Conference argued that it was in compliance with 10 CFR 34.44 because there was a radiographer on site; however, in its February 22, 1989 response, the licensee admits it knowingly allowed a radiographer's assistant to conduct radiographic operations in violation of NRC's requirements.

III

On the basis of the information discussed in Section II of this Order, NRC concludes that Basin committed willful violations of NRC requirements in: (1) Failing to inform NRC of its licensed activities in Wyoming (Laramie Pipeline, Laramie, Wyoming) which occurred from June to August 1988, and (2) providing a false statement to the NRC as to its knowledge of this requirement. In addition, the licensee in its February 22 response, admits it knowingly allowed a radiographer's assistant to conduct radiographic operations in violation of NRC requirements. NRC recognizes based on its February 28, 1989, inspection that Basin currently appears to be in compliance with the NRC's regulations. However, because of the past willful violations, the NRC has substantial questions as to whether there is reasonable assurance that the licensee will comply in the future with the Commission requirements, including providing complete and accurate responses to the Commission's duly authorized agents. Therefore, the NRC requires that Basin Testing Laboratory, Inc., show cause why the general license authorized pursuant to 10 CFR 150.20 which allows Basin to conduct industrial radiography activities in locations under NRC jurisdiction should not be suspended until Basin Testing Laboratory, Inc. has taken sufficient actions to assure that licensed activities will be properly conducted and information provided the Commission and agents will be complete and accurate.

IV

In view of the above, and pursuant to sections 81, 161b, 161c, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended (Act), and the regulations in 10 CFR parts, 2, 30, 34 and 150, *it is hereby ordered that:*

Basin Testing Laboratory, Inc., doing business as Basin Services, Inc., which holds License Number ND 33–16105–02 issued by the state of North Dakota, show cause within 20 days of the date of this Order why its general license authorized by 10 CFR 150.20 to conduct industrial radiography activities within NRC jurisdiction should not be suspended.

V

Pursuant to 10 CFR 2.202(b), the licensee may show cause why this Order, in whole or in part, should not have been issued by filing a written answer under oath or affirmation within 20 days of the date of issuance of this Order, setting forth the matters of fact and law on which the licensee relies. The licensee may answer, as provided in 10 CFR 2.202(d), by consenting to the entry of this Order. If the licensee fails to file an answer within the specified time, consents to this order, or fails to request a hearing in accordance with section VI below, and in the absence of any other request for a hearing, this order shall be final without further proceedings.

VI

The licensee or any other person adversely affected by this Order may request a hearing within 20 days of the date of this Order. Any answer to this Order or request for a hearing shall be addressed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555. Copies also should be sent to the Assistant General Counsel for Hearings and Enforcement, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the Regional Administrator, U.S.

Nuclear Regulatory Commission, Region IV, 611 Ryan Plaza Drive, Suite 1000, Arlington, Texas 76011. If a person other than the licensee requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714(d).

If a hearing is requested by the licensee or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of the hearing. If a hearing is held, the issue to be considered shall be whether the licensee's general license under 10 CFR 150.20 should be suspended.

Dated at Rockville, Maryland, this 6th day of December 1989.

For the Nuclear Regulatory Commission.

Hugh L. Thompson, Jr.,

Deputy Executive Director for Nuclear Materials Safety, Safeguards, and Operations Support.

[FR Doc. 89-29063 Filed 12-12-89; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

Request for Approval of OPM Form 1386; Applicant Race and National Origin Questionnaire Submitted to OMB for Clearance

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (title 44, U.S. Code, chapter 35), this notice announces a request to revise and reinstate the use of OPM Form 1386, Applicant Race and National Origin Questionnaire. OPM will use Form 1386, Applicant Race and National Origin Questionnaire, to collect data needed for determining impact of selection procedures and for complying with provisions of *Leuvano* v. *Newman*, Civil Action 79-0271, U.S. District Court for DC.

Approximately 60,000 will be processed annually; each form requires approximately 8 minutes to complete, for a total public burden of 8,000 hours. For copies of this proposal, call Larry Dambrose, on (202) 632-0199.

Because OPM Form 1386 will be used in connection with alternative examinations for college entry positions developed in accordance with the *Luevano* decree, which must be announced early in Calendar Year 1990 if registers are to be established in time to hire 1990 graduates, OPM is requesting expedited OMB clearance to the revised and reinstated OPM Form 1386 within 14 days.

DATES: Comments on this proposal should be received on or before December 18, 1989.

ADDRESS: Send or deliver comments to Joseph Lackey, OPM Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, NW., Room 3235, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Tracy E. Spencer on (202) 632-6817.

U.S. Office of Personnel Management.

Constance Berry Newman,

Director.

BILLING CODE 6325-01-M

U.S. Office of Personnel Management

APPLICANT RACE AND NATIONAL ORIGIN QUESTIONNAIRE

Form Approved:
O.M.B. No. 3206-XXXX

Instructions

1 – Complete **only** if the Occupation for which you are applying is listed in item 5.
2 – **DO NOT** fold, staple, tear or paper clip this form.
3 – Use **only** a **Number 2** lead pencil.
4 – **Completely** blacken the circle corresponding to your response choice.
5 – **Completely** erase any mistakes or stray marks.
6 – Read the instructions for each item carefully **before** completing that item.

BATCH NUMBER (BNO)

FOR OFFICE USE ONLY

1 USE A NUMBER 2 PENCIL

Name *(Please Print)*

Write your response in the boxes and blacken the appropriate circles.

2 EXAMPLE

2 SOCIAL SECURITY NUMBER

The United States District Court for the District of Columbia, in a Decree approved in a lawsuit entitled Luevano v. Newman, Civil Action No. 79-0271, has ordered that Federal Government agencies provide data on the race and national origin of applicants for certain Federal occupations. The position for which you are applying is one of those occupations.

You are requested to complete this form. The data you supply will be used for statistical analysis pursuant to the requirements of the lawsuit. Submission of this information is voluntary. Your failure to do so will have no effect on the processing of your application for Federal employment. Read the Public Burden Statement on the back.

Your Social Security Number (SSN) is requested under the authority of Executive Order 9397 (November 22, 1943) for the orderly administration of personnel records. Submission of your SSN is voluntary and failure to furnish your SSN on this form will have no effect on your application.

This form is authorized for use by the Office of Personnel Management ONLY for the purposes of complying with the requirements of the Luevano v. Newman Decree.

3 RACIAL AND/OR NATIONAL ORIGIN

INSTRUCTIONS: The categories below provide descriptions of racial and national origins. Read the Definition of Category descriptions and then blacken the circle next to the category with which you identify yourself. If you are of mixed racial and/or national or origin, select the category with which you most closely identify yourself. **NOTE: Please mark only ONE circle!**

Name of Category	Definition of Category
○ American Indian or Alaskan Native	A person having origins in any of the original peoples of North America, and who maintains cultural identification through community recognition or tribal affiliation.
○ Asian or Pacific Islander	A person having origins in any of the original peoples of the Far East, Southeast Asia, the India subcontinent, or the Pacific Islands. For example, this area includes China, India, Japan, Korea, the Philippine Islands, and Samoa.
○ Black, not of Hispanic origin	A person having origins in any of the black racial groups of Africa. This does not include persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish cultures or origins.
○ Hispanic	A person of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish cultures or origins. This does not include persons of Portuguese culture or origin.
○ White, not of Hispanic origin	A person having origins in any of the original peoples of Europe, North America, or the Middle East. This does not include persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish cultures or origins.
○ Other	A person not included in another category.

PLEASE COMPLETE BOTH SIDES

All Previous Editions are Obsolete

OPM Form 1386 (Rev. 1-90)

4 PRIMARY GEOGRAPHIC ZONE

INSTRUCTIONS: Blacken the circle next to the Zone which includes your first choice for location of employment. This designation is for statistical use only and will not affect your actual consideration for employment. **NOTE: Please mark only ONE circle!**

○ **ATLANTA**
Alabama
Florida
Georgia
Mississippi
North Carolina
South Carolina
Tennessee
Virginia

○ **CHICAGO**
Illinois
Indiana
Iowa
Kansas
Kentucky
Michigan
Minnesota
Missouri
Nebraska
North Dakota
Ohio
South Dakota
West Virginia
Wisconsin

○ **DALLAS**
Arizona
Arkansas
Colorado
Louisiana
Montana
New Mexico
Oklahoma
Texas
Utah
Wyoming

○ **PHILADELPHIA**
Connecticut
Delaware
Maine
Maryland
Massachusetts
New Hampshire
New Jersey
New York
Pennsylvania
Rhode Island
Vermont

○ **SAN FRANCISCO**
California
Idaho
Nevada
Oregon
Washington

○ **ALASKA**
State of Alaska

○ **CARIBBEAN**
Puerto Rico and the Virgin Islands

○ **HAWAII**
State of Hawaii and Pacific overseas area

○ **WASHINGTON, D.C.:** Washington, D.C. Metropolitan Area (Charles, Montgomery, and Prince George's Counties in Maryland. Arlington, Fairfax, Prince William, King George, Stafford and Loudoun Counties and Falls Church, Alexandria, and Fairfax cities in Virginia) and Overseas Atlantic area (African, European, Middle Eastern, Central and South American countries).

5 OCCUPATIONS

INSTRUCTIONS: The category below lists the Occupations with Positive Education Requirements. Blacken the circle next to the occupation for which you would like to be considered. **NOTE: Please mark only ONE circle!**

○ Archeology (0001O)
○ Archivist (0001U)
○ Community Planning (0001D)
○ Economist (0001E)
○ Education Program (0001V)
○ Foreign Affairs (0001F)
○ General Anthropology (0001N)
○ General Education and Training (0001T)
○ Geography (0001G)
○ History (0001K)
○ International Relations (0001I)
○ Manpower Research and Analysis (0001M)
○ Museum Curator (0001Q)
○ Psychology (0001P)
○ Social Science (0001J)
○ Sociology (0001S)

PUBLIC BURDEN STATEMENT

Public burden reporting for this collection of information is estimated to take approximately 8 minutes per response, including time for reviewing instructions, searching existing data sources, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to Reports and Forms Management Officer, U.S. Office of Personnel Management, 1900 E Street, N.W., Room 6410, Washington, D.C. 20415; and to the Office of Management and Budget, Paperwork Reduction Project (3206-XXXX), Washington, D.C. 20503.

OPM Form 1386 BACK (Rev. 1-90)

[FR Doc. 89-29067 Filed 12-12-89; 8:45 am]
BILLING CODE 6325-01-C

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Increase in Level of Permissible Imports of Certain Articles From the European Community

AGENCY: Office of the United States Trade Representative.

ACTION: Modification of quantitative restrictions.

SUMMARY: This notice increases the level of permissible imports for 1989 and subsequent years of certain articles the product of member countries of the European Community (EC) that are subject to limitation under Presidential Proclamation 5478 of May 15, 1986.

EFFECTIVE DATE: 12:01 a.m., December 13, 1989.

FOR FURTHER INFORMATION CONTACT: Laura Anderson, (202) 395–3074, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC 20506.

SUPPLEMENTARY INFORMATION: On May 15, 1986, the President determined pursuant to section 301(a) of the Trade Act of 1974 that certain restrictions imposed by the EC on imports of grain and oilseeds deny benefits to the United States under the General Agreement on Tariffs and Trade (GATT), are unreasonable and constitute a burden or restriction on U.S. commerce. In Proclamation 5478 (51 FR 18294), the President proclaimed quantitative restrictions on imports into the United States of specified articles the product of any member country of the EC, effective May 19, 1986. In that proclamation, the President authorized the United States Trade Representative (USTR) to suspend, modify or terminate any of the quantitative restrictions upon publication in the **Federal Register** of the USTR's determination that such action is justified by actions of the EC or is otherwise appropriate.

The intent of the U.S. quantitative restrictions is to have an effect on EC trade comparable to the EC's restrictions on imports following Portugal's entry into the EC. The EC has not been willing to remove its restrictions with respect to oilseeds. However, the EC has committed to adjust the level of the EC quota on soybean oil consumption that alleviates the immediate risk of damage to U.S. export interests from these measures in 1990.

In response to this EC commitment, it is appropriate to adjust the level of U.S. restrictions in order to avoid a more damaging effect on EC trade than is warranted by the current operation of the EC restrictions in Portugal.

Modifications

Pursuant to the authority delegated to me in Proclamation 5478 of May 15, 1986, I have determined that a modification of the quantitative restrictions provided for in that proclamation is justified by actions taken by the EC with respect to this matter and is otherwise appropriate, taking into account the interests of the United States.

Accordingly, for calendar year 1989 and any subsequent calendar year, the levels of permissible imports under the quantitative restrictions provided for in subheadings 9903.17.20 and 9903.17.25 of subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States (HTS) for articles the products of the European Economic Community are increased, and effective on the date of publication of this notice and determination in the **Federal Register**, the quantities specified in those HTS subheadings are modified to read as follows:

[Ale, porter, stout and beer:]

[9903.17.20	In containers other than glass each holding not over 3.8 liters (provided for in heading 2203 or 2206)] "26,159,450 liters"
[9903.17.25	In containers each holding over 3.8 liters (provided for in heading 2203 or 2206)] "78,039,000 liters"

Carla A. Hills,

United States Trade Representative.

[FR Doc. 29149 Filed 12–12–89; 8:45 am]

BILLING CODE 3190–01–M

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration; Pugent Sound Power & Light Co., 9.36% Preferred Stock, $25 Par Value (File No. 1–4393)

December 7, 1989.

Puget Sound Power & Light Company ("Company"), has filed an application with the Securities and Exchange Commission ("Commission") pursuant to section 12(d) of the Securities Exchange Act of 1934 and Rule 12d2–2(d) promulgated thereunder to withdraw the above specified security from listing and registration on the American Stock Exchange, Inc. ("AMEX").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

In February 1979, Puget Sound Power & Light Company ("the Company") issued 2 million shares of the 9.36% Preferred Stock. This issue has been listed on the AMEX. From 1982 through 1984, 57,600 shares were redeemed through open market purchases. On March 1, 1987, 162,000 shares were redeemed through sinking fund provisions. On July 1, 1987, 970,400 shares were called for redemption. An additional 162,000 shares were retired through the sinking fund on each March 1 in 1988 and 1989. Currently, 486,000 shares remain outstanding and are held by 270 holders of record. In addition, only 22 transactions involving the 9.36% Preferred Stock, inclusive of sales and certificate transfers, occurred during the first nine months of 1989.

Since the number of shares listed on the AMEX which have not been cancelled and remain outstanding has decreased from 2 million to 486,000 shares and because of the small number of holders of involving the shares, the Company has determined that the cost of continued listing on the AMEX is no longer prudent.

Any interested person may, on or before December 29, 1989, submit by letter to the Secretary of the Commission, 450 Fifth Street, NW., Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchanges and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 89–29022 Filed 12–12–89; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Craven County, NC

AGENCY: Federal Highway Administration (FHWA), DOT

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project which bypasses the town of New Bern, North Carolina.

FOR FURTHER INFORMATION CONTACT: Robert L. Lee, District Engineer, Federal Highway Administration, P.O. Box 26806, Raleigh, North Carolina 27611, Telephone: (919) 790–2856.

SUPPLEMENTARY INFORMATION: The FHWA in cooperation with the North Carolina Department of Transportation (NCDOT) will prepare an environmental impact statement (EIS) for the improvement of the US–17 Corridor around New Bern. The proposed action would be the construction of a multi-lane, divided, controlled access highway, on new location from the existing US–17, south of US–70, to US–17, north of the Neuse River, in Craven County. US–17 is North Carolina's major north-south route east of Interstate 95. Improvements to the corridor are considered necessary to increase safety and traffic service around New Bern.

Corridors under consideration include: (1) the "no-build", (2) the partial relocation and improvements of existing US–17, and (3) a highway on entirely new location.

Solicitation of comments on the proposed action are being sent to appropriate Federal, State and local agencies. A complete public involvement program is being developed for the project to include: distribution of newsletters to interested parties, public meetings, and a public hearing to be held in the study area. Information on the time and place of the public hearing will be provided in the local news media. The draft EIS will be available for public and agency review and comment prior to the public hearing. No formal scoping meeting is planned at this time.

To assure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Robert L. Lee,

District Engineer, Raleigh, North Carolina.

[FR Doc. 89–29015 Filed 12–12–89; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Date: December 7, 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, P.L. 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2224, 15th and Pennsylvania Avenue, NW., Washington, DC 20220.

Financial Management Service

OMB Number: 1510–0027.

Form Number: 1681.

Type of Review: Extension.

Title: Application for Payment of a Decreased Depositor's Postal Savings.

Description: This form is required in cases of deceased Postal Savings depositors with accounts of $50 or less. The form is used by relatives of the deceased depositors showing the relationship to the depositor and the date of depositor's death. The information helps to determine who is entitled to payment.

Respondents: Individuals or households.

Estimated Number of Respondents: 150.

Estimated Burden Hours Per Response: 15 minutes.

Frequency of Response: As needed.

Estimated Total Reporting Burden: 38 hours.

OMB Number: 1510–0052.

Form Number: TFS 458, 459, 460, 469.

Type of Review: Extension.

Title: Financial Institution Forms for Federal Tax and Treasury Tax and Loan Depository.

Description: Financial institutions are required to complete a contract application to participate in the FTD/TT&L Program. The approved application designates the depository as an authorized recipient of taxpayers' deposits for Federal taxes.

Respondents: Businesses or other for-profit.

Estimated Number of Respondents: 450.

Estimated Burden Hours Per Response: 30 minutes.

Frequency of Response: Once for the duration of authorization.

Estimated Total Reporting Burden: 450 hours.

Clearance Officer: Jacqueline R. Perry (301) 436–6453, Financial Management Service, Room 500A, 3700 East West Highway, Hyattsville, MD 20782.

OMB Reviewer: Milo Sunderhauf (202) 395–6880 Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Irving W. Wilson, Jr.,

Department Reports Management Officer.

[FR Doc. 89–29013 Filed 12–12–89; 8:45 am]

BILLING CODE 4810–25–M

Public Information Collection Requirements Submitted to OMB for Review

Date: December 7, 1989.

The Department of the 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: 1545–0245.

Form Number: 6627.

Type of Review: Revision.

Title: Environmental Taxes.

Description: Attached to Form 720 to compute and collect tax on petroleum, chemicals, imported chemical substances, and ozone-depleting chemicals.

Respondents: Individuals or households, Businesses or other for-profit, Small businesses or organizations

Estimated Number of Respondents: 3,400

Estimated Burden Hours Per Response:

Recordkeeping	26 hours, 33 minutes.

Learning about the law or the form.	22 minutes.
Preparing the form ...	1 hour, 45 minutes.
Copying, assembling, and sending the form to IRS.	16 minutes.

Frequency of Response: Quarterly.
Estimated Total Reporting Burden: 393,448 hours.
OMB Number: 1545–0633.
Form Number: Notice 437, 438, 466.
Type of Review: Extension.
Title: Notice of Intention to Disclose.
Description: Notice is required by 26 U.S.C. 6110(f). A reply is necessary if recipient disagrees with the Service's proposed deletions. The Service uses the reply to consider propriety of making additional deletions to public inspection versions of written determinations or related background file documents.
Respondents: Individuals or households, Farms, Businesses or other for-profit, Non-profit institutions, Small businesses or organizations.
Estimated Number of Respondents: 7,000.
Estimated Burden Hours Per Response: 30 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 3,500 hours.
Clearance Officer: Garrick Shear, (202) 535–4297, Internal Revenue Service, Room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.
OMB Reviewer: Milo Sunderhauf, (202) 395–6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Irving W. Wilson, Jr.,
Departmental Reports Management Officer.

[FR Doc. 89–29077 Filed 12–12–89; 8:45 am]
BILLING CODE 4810-25-M

UNITED STATES SENTENCING COMMISSION

Public Access to Sentencing Commission Documents and Data

AGENCY: United States Sentencing Commission.

ACTION: Notice of promulgation of a revised interim policy regarding public access to Sentencing Commission documents and data and solicitation of comments; publication of agreement between the Administrative Office of the United States Courts and the United States Sentencing Commission concerning the confidentiality of certain sentencing information.

SUMMARY: Pursuant to its authority under section 995(a) of title 28, United States Code, the Sentencing Commission promulgates a revised interim policy on public access to Sentencing Commission documents and data set forth below and invites public comment. The Sentencing Commission also publishes the agreement which it entered into with the Administrative Office of the United States Courts on June 22, 1988, concerning the confidentiality of certain sentencing information.

EFFECTIVE DATE: The revised policy on public access to Sentencing Commission documents and data set forth below takes effect on March 15, 1990.

DEADLINE FOR COMMENTS: Comments should be received by the Commission no later than February 12, 1990.

ADDRESS: Comments should be sent to the United States Sentencing Commission, 1331 Pennsylvania Avenue, NW., Suite 1400, Washington, DC 20004, Attention: Public Access Comment.

FOR FURTHER INFORMATION CONTACT: Paul K. Martin, Communications Director for the Commission, telephone: (202) 662–8800.

SUPPLEMENTARY INFORMATION: Section 995(a)(1) of Title 28 authorizes the U.S. Sentencing Commission, an independent commission in the Judicial branch of government, to establish general policies and promulgate rules and regulations for the Commission as necessary to carry out the purposes of the Sentencing Reform Act of 1984.

On June 21, 1989, the Commission published in the **Federal Register** an interim policy on public access to Commission data and documents and solicited public comment. Comments were generally concerned with two areas: (1) That the agreement concerning the confidentiality of certain sentencing information which the Commission had entered into with the Administrative Office of the United States Courts had not been previously published; and, (2) that under the interim policy source documents are generally unavailable to the public. In response to the first comment, the Commission is publishing its agreement with the Administrative Office. The text of the agreement is set forth below following the revised interim policy on public access to Commission documents and data.

The Commission has also reviewed its initial determination not to provide public access to source documents such as judgement and commitment orders and plea agreements. The Commission is legally obligated not to provide access to confidential documents and continues to believe that it is under no legal obligation to provide access to other documents. Further, the effort required to provide access to judgement and commitment orders and plea agreements would place an excessive burden on the resources of the agency. It should be noted that the information contained in such documents will be summarized in the datasets which the Commission provides to the Inter-university Consortium for Political and Social Research. These datasets will contain a variety of information about the defendant (though not information which would identify him), the nature of the offense, and the sentence imposed. These datasets will be updated periodically with the addition of new cases. Further, such documents themselves are available from the court of origination.

The Commission has also included in the revised interim policy a provision in part III which makes clear that it may also assemble datasets of other non-confidential information which it has obtained in the course of conducting research, in support of policy development, or in otherwise performing its functions. Such datasets will also be made available to the public through the Inter-university Consortium for Political and Social Research.

Authority: 28 U.S.C. § 995(a)(1), Sentencing Reform Act of 1984 (Pub. L. 98–473, October 12, 1984).

William W. Wilkins, Jr.,
Chairman.

Public Access to Sentencing Commission Documents and Data

I. Introduction: General Purpose and Authorities

Providing public access to non-confidential sentencing information is consistent both with the letter and the spirit of the Sentencing Reform Act of 1984. Among the Commission's duties under the Act is to "establish sentencing policies and practices for the Federal criminal justice system that reflect, to the extent practicable, advancement in knowledge of human behavior as it relates to the criminal justice process." 28 U.S.C. 991(b)(1)(C). As part of that mandate, Congress envisioned that the Commission would "serv[e] as a clearinghouse and information center for the collection, preparation, and dissemination of information on Federal sentencing practices." 28 U.S.C. 995(a)(12)(A).

Consistent with its clearinghouse function, the Commission is required to provide certain information to the public regarding sentencing in the federal system. Thus, the Commission is

responsible for: (a) Collecting systematically the data obtained from studies, research, and the empirical experience of public and private agencies concerning the sentencing process (28 U.S.C. 995(a)(13)); (b) publishing data concerning the sentencing process (28 U.S.C. 995(a)(14)); (c) collecting systematically and disseminating information concerning sentences actually imposed, and the relationship of such sentences to the statutory purposes of sentencing set forth in section 3553(a) of title 18, United States Code (28 U.S.C. 995(a)(15)); (d) collecting systematically and disseminating information regarding effectiveness of sentences imposed (28 U.S.C. 995(a)(16)); and, (e) maintaining and making available for public inspection a record of the final vote of each member on any action taken by it (28 U.S.C. 995(e)).

The U.S. Sentencing Commission seeks to carry out its Congressional mandates in a manner that provides for the most efficient use of government resources and is consistent with its agreement with the Administrative Office of the U.S. Courts regarding the confidentiality of certain documents.

II. Public Access to Commission Publications and Other Reports

Publications.—Official Commission publications are available to the public through the Government Printing Office or other administratively efficient means. Copies of all such documents are available in the Commission library for public review.

Other Reports.—Requests for statistical information regarding federal sentencing practices will be limited to published and/or Commission approved reports. The reports produced from monitoring data collected by the Commission will be made available periodically and photocopies of such reports may be requested from the Commission. The cost of photocopied documents are the responsibility of the requestor.

III. Public Access to Commission Data

Comprehensive Datasets.—The Commission will create a comprehensive dataset on federal sentencing practices under the Sentencing Guidelines that will be made available for public use through the Inter-university Consortium for Political and Social Research. The dataset will contain a variety of information about the defendant (though not information which would identify him), the nature of the offense, and the sentence imposed. These datasets will be updated periodically with the addition of new cases.

From time to time the Commission, where appropriate, may also make available datasets of other non-confidential information which it has obtained in the course of conducting research, in support of policy development, or in otherwise performing its functions. These datasets will also be made available to the public through the Inter-university Consortium for Political and Social Research.

Source documents.—Source documents, in general, will not be available to the public. Much of the information contained within individual files is of a confidential nature and is protected by an agreement entered into by the Commission with the Administrative Office of the U.S. Courts.

IV. Public Access to Commission Minutes and Library Services

Commission Minutes. Approved minutes of Commission meetings are available for public inspection. Appointments to view the minutes must be coordinated through the Communications Director. Photocopies of minutes are also available. The cost of photocopied documents are the responsibility of the requestor.

Library Services. The public is afforded full access to the library and the documents contained therein. Books and other documents and materials are available for use by the public and may be photocopied at the expense of the user.

V. Special Research Projects

Authority and Purpose.—Under 28 U.S.C. 995(a) (6)–(7), the Commission has authority to enter into "cooperative agreements [ ] and other transactions * * * with any person, firm, association, corporation, educational institution, or nonprofit organization" and to "accept and employ * * * voluntary and uncompensated services." From time to time the Commission may enter into cooperative agreements with private researchers to undertake an analysis of sentencing data. The purpose of such agreements would be to further the Commission's duty to "establish sentencing policies and practices for the Federal criminal justice system that reflect, to the extent practicable, advancement in knowledge of human behavior as it relates to the criminal justice process." 28 U.S.C. 991(b)(1)(C).

Criteria and Requirements.—Cooperative agreements, when entered into, will involve formal arrangements with outside persons or organizations. All requirements with respect to preserving the confidentiality of information that are applicable to the Commission and its staff will apply equally to any party who enters into a cooperative agreement with the Commission. Proposals for cooperative agreements will be considered by the Commission in light of the following criteria:

- Whether the proposed research is sponsored by a recognized academic institution, non-profit research organization, or government entity;
- The purpose of the research and extent to which the proposed project would advance the knowledge of human behavior as it relates to the criminal justice process; and
- The amount of data that is being requested and the administrative burden involved in providing such data.

Special Project Coordination and Feasibility. Proposals for special projects will be reviewed by the Staff Director, the General Counsel, and the Associate Director(s) of Research of the Sentencing Commission, or their designees, who shall report to the Commission on the feasibility and appropriateness of the proposal. The Staff Director shall ensure that a representative of the General Counsel's Office and of the Probation Division of the Administrative Office of the U.S. Courts are consulted with respect to the proposed cooperative agreement as it my relate to the Commission's obligations involving confidentiality of sentencing data.

Explanation

Section I

This section sets forth the statutory authorities under which the Commission adopted a policy on public access.

Section II

Publications.—This section refers to official Commission publications such as the Guidelines Manual, the Supplementary Report on the Initial Sentencing Guidelines and Policy Statements, and the Annual Report that are currently available from the Government Printing Office (GPO). As new reports are produced and approved by the Commission for dissemination, they too will be made available through the GPO or other administratively efficient means. It is anticipated that the computer software developed to assist in application of the Sentencing Guidelines (ASSYST) will be made available to the general public through the National Technical Information Service.

Other Reports.—This section provides that materials other than official

publications will only be made available to the public upon specific approval by the Commission.

Section III

Comprehensive Datasets.—This section provides that comprehensive datasets of sentencing information and, where appropriate, other information the Commission obtains through conducting research, in support of policy development, or in otherwise performing its functions, will be made available to the public through the Inter-university Consortium for Political and Social Research. Making information available in that manner is consistent with the policies of other federal agencies conducting or administering research related to sentencing and other criminal justice issues. Although the dataset will not contain information which would identify an individual defendant, it will contain a variety of information about the defendant, the nature of the offense, and the sentence imposed. Included will be variables identifying the circuit and district of the offense as well as demographic information about the defendant such as age, race, and sex. In addition, information about the defendant's prior criminal record, the statutes of conviction, and certain guideline indicators will be included in the file. Finally, information about the sentence imposed will be included.

Source Documents.—This section states that source documents will not be made available to the public. The Commission takes this position relative to source documents for two reasons. First, in June of 1988 the Commission entered into an agreement with the Administrative Office of the U.S. Courts concerning the appropriate treatment of confidential sentencing data.[1]

This agreement places several limitations on the Commission in terms of the data collected by representatives of the U.S. Courts and provided to the Commission:

- it permits the use of confidential information "only in connection with" the Commissioin's "statutory duties;"
- it requires that "[n]o information that will identify an individual defendant or other person identified in the sentencing information" be released outside of the Commission without the express permission of the court for which the information was prepared and that public Commission reports or summaries containing sentencing information be free of confidential identifying information; and
- it requires the Commission to maintain administrative and physical security over the information and limits internal distribution of confidential sentencing information to Commissioner and Commission personnel with a "need for the information."

It is imperative that the Commission operate both by the letter and the spirit of the agreement with the Administrative Office. The cooperation of the Administrative Office in the collection of the data is essential to the Commission's ability to carry out its statutory mandate to "collect systematically and disseminate information regarding effectiveness of sentences imposed."

The second reason that the Commission is unable to make source documents available to the public relates to the physical and financial burden that such a policy would place on the Commission. In order to protect the confidentiality of information, photocopies of every non-confidential document would be required. Each photocopy would require inspection and removal of individual identifying information. Separate storage would be required for the desensitized documents in order to remove the potential of accidental availability of confidential documents or documents that contained individual identifiers. The Commission simply does not have the resources to provide such a service, particularly given that summaries of the information available from such source documents would be available through the dataset provided in the Inter-university Consortium for Political and Social Research.

Section IV

Commission Minutes.—Section 995(e) of title 28, United States code, requires that a record of votes of each member of the Commission be made available to the public. This policy is proposed in furtherance of that statutory requirement.

Library Services.—The Commission is assembling a library that will contain books, academic journals and articles, government reports and documents, reports of varied studies on federal sentencing, and bibliographic materials on selected topics related to federal sentencing. As part of its clearinghouse function library materials are available to the public for review on Commission premises and for duplication at the users' expense.

Section V

This section provides a formal structure under which the Commission may share information with outside researchers for mutually beneficial purposes. The Commission possesses the authority under statute to enter into "cooperative agreements" with private individuals and organizations and to accept voluntary, uncompensated services. This section anticipates situations where the Commission may wish to cooperate with outside research organizations in the interests of furthering "the advancement in knowledge of human behavior as it relates to the criminal justice process." 28 U.S.C. § 991(b)(1)(C). It provides that such cooperative agreements be formal and that all requirements concerning the confidentiality of information be observed. Criteria for accepting a proposed project are provided. Further, a staff committee is required to assess proposals for feasibility and appropriateness. It is also required that certain offices within the Administrative Office of the United States Courts be consulted with respect to any questions concerning the Commission's obligations involving the confidentiality of sentencing data as they may relate to a proposed cooperative agreement.

Agreement Concerning the Confidentiality of Certain Sentencing Information

Introduction.—The agreement between the Administrative Office of the United States Courts and the United States Sentencing Commission was memorialized in the following letter between L. Ralph Mecham, Director of the Administrative Office and Judge William W. Wilkins, Jr., Chairman of the Commission. The letter is dated June 22, 1988 and become effective when countersigned by Judge Wilkins on July 21, 1988. The letter follows:

June 22, 1988.

Honorable William W. Wilkins, Jr.,
Chairman, United States Sentencing Commission, 1331 Pennsylvania Avenue, NW., Washington, DC 20004.

Dear Judge Wilkins: On March 7, 1988, I notified the courts of the documentation needed by the Sentencing Commission to perform its statutory duty of monitoring sentences imposed under the provisions of the Sentencing Reform Act. My memorandum noted that a general agreement protecting the confidentiality of presentence reports would be entered into by the Commission and the Administrative Office. Since my memorandum, the General Accounting Office has requested access to presentence reports and other documents from the Commission. This request required agreement with the GAO on the protection of the confidentiality

[1] Letter from L. Ralph Mecham, Director, Administrative Office of the U.S. Courts, to Honorable William W. Wilkins, Jr., Chairman, U.S. Sentencing Commission, June 22, 1988.

of presentence reports and coordination with your Research Division on how to honor requests that certain information not be forwarded to the GAO. Now that these arrangements have been made, we can execute an agreement on confidentiality. I understand that this agreement has been worked out by our respective General Counsels.

Accordingly, I understand that the United States Sentencing Commission agrees to maintain the confidentiality of sentencing information transferred to the Commission through the assistance of the Administrative Office as follows:

(1) The sentencing information will be used only in connection with the statutory duties of the Commission as set forth in chapter 58 of title 28, United States Code.

(2) No information that will identify an individual defendant or other person identified in the sentencing information will be disclosed to persons or entities outside of the Commission without the express permission of the court for which the information was prepared. However, this restriction does not prohibit disclosure of sentencing information to the General Accounting Office unless an individual court has identified a particular case as to which the court has requested that sentencing information not be disclosed to the General Accounting Office.

(3) The Commission will maintain administrative and physical security of the sentencing information in order to provide a reasonable assurance against accidental or deliberate disclosure to unauthorized persons.

(4) Access within the Commission to the sentencing information will be limited to commissioners and to those employees* who have a need for the information for the purposes set out in chapter 58 of title 28, United States Code, and the commissioners and such employees will be advised of and agree to comply with the provisions of this agreement.

(5) Any reports, findings or other summaries of the sentencing information that will become accessible to the public will not contain information that can reasonably be expected to lead to the identification of an individual defendant or other person identified in the sentencing information.

Please acknowledge acceptance of these conditions by signing the copy of this letter and returning it to the undersigned.

Sincerely,

L. Ralph Mecham,

Director.

Dated: July 21, 1988.

Agreed to as outlined above:

William W. Wilkins, Jr.,

Chairman, Sentencing Commission.

*As used in this document, the term "employees" includes all persons employed or retained by the Commission, including but not limited to contractors, consultants, temporary and part-time employees, and volunteers.

[FR Doc. 89-29004 Filed 12-12-89; 8:45 am]

BILLING CODE 2210-40-M

Sunshine Act Meetings

Federal Register
Vol. 54, No. 238
Wednesday, December 13, 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).

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Forwarded to the **Federal Register** on December 7, 1989.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10:00 a.m., Friday, December 15, 1989.

CHANGES IN THE MEETING: Addition of the following open item(s) to the meeting:

Board Multi-Year Affirmative Employment Program Plan.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Dated: December 11, 1989.

William W. Wiles,

Secretary of the Board.

[FR Doc. 89–29156 Filed 12–11–89; 11:37 am]

BILLING CODE 6210-01-M

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: 12:00 a.m., Monday, December 18, 1989.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: December 11, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89–29157 Filed 12–11–89; 11:37 am]

BILLING CODE 6210-01-M

NATIONAL LABOR RELATIONS BOARD

TIME AND DATE: 10:00 a.m., Wednesday, December 13, 1989.

PLACE: Board Conference Room, Sixth Floor, 1717 Pennsylvania Avenue NW., Washington, DC 20570.

STATUS: Closed pursuant to 5 U.S.C. 552b(c)(2) (internal personnel rules and practices) and (c)(6) (personal information where disclosure would constitute a clearly unwarranted invasion of personal privacy).

MATTERS TO BE CONSIDERED: Personnel matters.

CONTACT PERSON FOR MORE INFORMATION: John C. Truesdale, Executive Secretary National Labor Relations Board, Washington, DC 20570, Telephone: (202) 254–9430.

Dated: Washington, DC, December 7, 1989.

By direction of the Board.

John C. Truesdale,

Executive Secretary, National Labor Relations Board.

[FR Doc. 89–29145 Filed 12–11–89; 11:08 am]

BILLING CODE 7445-01-M

NATIONAL TRANSPORTATION SAFETY BOARD

TIME AND DATE: 9:30 a.m., Tuesday, December 19, 1989.

PLACE: Board Room, Eighth Floor, 800 Independence Avenue, S.W., Washington, DC 20594.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Marine Accident Report: Sinking of the Passenger Vessel COUGAR, off the Coast of Oregon, September 15, 1989.

NEWS MEDIA PLEASE CONTACT BETTY SCOTT (202) 382–6600

FOR MORE INFORMATION CONTACT: Bea Hardesty, (202) 382–6525.

Dated: December 8, 1989.

Bea Hardesty,

Federal Register Liaison Officer.

[FR Doc. 89–29167 Filed 12–11–89; 12:49 pm]

BILLING CODE 7533-01-M

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of December 11, 18, 25, 1989 and January 1, 1990.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Week of December 11

Thursday, December 14

10:00 a.m.
Briefing on Status of Implementation of the Severe Accident Master Integration Plan and Status of Licensee Progress on IPE (Public Meeting)

3:30 p.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of December 18—Tentative

Tuesday, December 19

10:00 a.m.
Briefing on Risk Communication (Public Meeting)

Wednesday, December 20

2:00 p.m.
Briefing by DOE on Status of Civilian High Level Waste Program (Public Meeting)

Thursday, December 21

2:00 p.m.
Briefing on NRC Actions for Cleanup of Contaminated Sites Under NRC Jurisdiction (Public Meeting)

3:30 p.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Friday, December 22

10:00 a.m.
Briefing by Executive Branch (Closed—Ex. 1)

Week of December 25—Tentative

There are no Commission meetings scheduled for the Week of December 25.

Week of January 1—Tentative

Thursday, January 4

3:30 p.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

ADDITIONAL INFORMATION: By a vote of 5–0 on December 1, the Commission determined pursuant to U.S.C. 552b(e) and § 9.107(a) of the Commission's rules that Commission business required that "Discussion of Management-Organization and Internal Personnel Matters" (Closed—Ex. 2 & 6), be held on December 1 and held on less than one week's notice to the public.

By a vote of 4–0 (Commissioner Roberts not present) on December 5, the Commission determined pursuant to U.S.C. 552b(e) and § 9.107(a) of the Commission's rules that Commission business required that "Affirmation of Revised Policy Statement and Enforcement Criteria Related to the Maintenance of Nuclear Power Plant"

(Public Meeting), be held on December 5 and held on less than one week's notice to the public.

Note: Affirmation sessions are initially scheduled and announced to the public on a time-reserved basis. Supplementary notice is provided in accordance with the Sunshine Act as specific items are identified and added to the meeting agenda. If there is no specific subject listed for affirmation, this means that no item has as yet been identified as requiring any Commission vote on this date.

To Verify the Status of Meetings Call (Recording)—(301) 492–0292.

CONTACT PERSON FOR MORE INFORMATION: William Hill (301) 492–1661.

Dated: December 7, 1989.

William M. Hill, Jr.,

Office of the Secretary.

[FR Doc. 89–29155 Filed 12–11–89; 11:37 am]

BILLING CODE 7590–01–M

federal register

Wednesday
December 13, 1989

Part II

Department of Transportation

Federal Aviation Administration

14 CFR Part 73

Establishment of Warning Areas in the Airspace Overlying the Waters Between 3 and 12 Nautical Miles From the United States Coast; Extension of Expiration Date; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 73

[Docket No. 25767; Special Federal Aviation Regulation (SFAR) No. 53-1]

Establishment of Warning Areas in the Airspace Overlying the Waters Between 3 and 12 Nautical Miles From the United States Coast

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule; extension of expiration date.

SUMMARY: This action continues for an additional 12 months the effectiveness of warning areas established in airspace subject to FAA jurisdiction in order to reflect presidential action extending the territorial sea of the United States, for international purposes, from 3 to 12 nautical miles from the U.S. coast. The warning areas were established in the same location as non-regulatory warning areas previously designated over international waters. The Department of Defense (DOD) conducts hazardous military flight activities in these areas. The areas had been established for a period of 1 year to permit the FAA to consider the need for rulemaking action to meet military training needs in this airspace. This action continues the effectiveness of these areas while airspace analyses and rulemaking efforts are ongoing.

DATES: *Effective:* December 27, 1989.

Expiration date: December 27, 1990.

FOR FURTHER INFORMATION CONTACT: David L. Bennett, Office of the Chief Counsel, AGC-230, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, Telephone: (202) 267-3491.

SUPPLEMENTARY INFORMATION:

Availability of Document

Any person may obtain a copy of this document by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA-230, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267-3484. Communications must identify the number of this SFAR. Persons interested in being placed on a mailing list for future rules should also request a copy of Advisory Circular No. 11-2A which describes the application procedure.

Background

Presidential Proclamation No. 5928, signed on December 27, 1988, extended the sovereignty of the United States government, for international purposes, from 3 to 12 nautical miles from the U.S. coast. By final rule issued on that same date, the FAA amended parts 71 and 91 of the Federal Aviation Regulations to extend controlled airspace and the applicability of general flight rules to the airspace overlying the waters between 3 and 12 nautical miles from the U.S. coast (54 FR 264; January 4, 1989).

When the airspace was considered to be over international waters, military aircraft were not prohibited from conducting hazardous training activities within this area. Warning areas were designated in this airspace to provide notice to nonparticipating pilots of the location of hazardous military training operations. However, nonparticipating pilots were not restricted from operating in these areas.

Upon the extension of part 91 operating rules to this airspace, DOD would have been prohibited from hazardous flight activities without an exemption from the regulations or the designation of an airspace category for that purpose. Warning areas established in international airspace, under FAA internal procedures, do not in themselves authorize hazardous activities. An exemption would permit the continuation of military operations, but would not in itself adequately inform the general flying public of the existence of these activities. An interruption of military operations normally conducted in warning areas would have an adverse impact on national defense. Accordingly, the FAA established regulatory warning areas to permit the continuation of existing military training activities in the same areas where those activities were and are still being conducted (SFAR-53, 54 FR 260, January 4, 1989).

The warning areas established by SFAR-53 are unique airspace designations intended solely to allow the continuation of military training activity and to permit nonparticipating aircraft to fly through such areas. Controlled flights are not affected by SFAR-53 or this extension, as such flights will continue to be routed around active warning areas.

Warning area designations and descriptions are not contained in the Code of Federal Regulations (CFR). For **Federal Register** citations affecting the warning areas, see the List of CFR Sections Affected in the Finding Aids section of 14 CFR part 73.

The Office of the Secretary of Defense has advised the FAA that its assessment of the impact upon military training operations of the expansion of territorial airspace and the applicable flight rules is ongoing. The DOD requested, on the basis of its preliminary findings, a one-year delay in the expiration of SFAR-53. The DOD stated that this delay will enable the DOD, in consultation with the FAA, to determine the best course of implementation of regulatory special use airspace.

The FAA agrees that the additional year is necessary to develop any additional rulemaking actions necessary to redesignate portions of the affected airspace.

Regulatory Evaluation

This SFAR does not alter the provision of air traffic control (ATC) services, nor does it have an impact on ATC system users. This special rule merely allows military training activity to continue without interruption, while permitting nonparticipating pilots to fly through such areas. Accordingly, because the costs of the rule adopted are so minimal, a regulatory evaluation has not been prepared.

Federalism Implications

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

Conclusion

For the reasons set forth above, the FAA has determined that this action is not a "major rule" under Executive Order 12291. In addition, the FAA certifies that this regulation will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Act. This regulation is not considered a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

List of Subjects in 14 CFR Part 73

Aviation safety, Special use airspace.

The Amendment

For the reasons set forth above, the Federal Aviation Administration is amending 14 CFR part 73 as follows:

PART 73—SPECIAL USE AIRSPACE

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

Authority: 49 U.S.C. 1348(a), 1354(a), 1510, 1522; Executive Order 10854; 48 U.S.C. 106(g) (Revised Pub. L. No. 97–449, January 12, 1983); 14 CFR 1169.

2. By amending Special Federal Aviation Regulation No. 53 to revise the Applicability paragraph (which expires December 27, 1990), to read as follows:

Special Federal Aviation Regulation No. 53–1—Establishment of Warning Areas in the Airspace Overlying the Waters Between 3 and 12 Nautical Miles From the United States Coast

1. Applicability. This rule establishes warning areas in the same location as non-regulatory warning areas previously designated over international waters. This special regulation does not affect the validity of any non-regulatory warning area which is designated over international waters beyond 12 nautical miles from the coast of the United States. This special regulation expires on December 27, 1990.

* * * * *

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

Jerry W. Ball,

Acting Director, Air Traffic Operations Service.

[FR Doc. 89–29047 Filed 12–12–89; 8:45 am]

BILLING CODE 4910–13–M

Reader Aids

Federal Register

Vol. 54, No. 238

Wednesday, December 13, 1989

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FEDERAL REGISTER PAGES AND DATES, DECEMBER

CFR PARTS AFFECTED DURING DECEMBER

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

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LIST OF PUBLIC LAWS

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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. 972/Pub. L. 101-203

To amend section 3724 of title 31, United States Code, to increase the authority of the Attorney General to settle claims for damages resulting from law enforcement activities of the Department of Justice. (Dec. 7, 1989; 103 Stat. 1805; 1 page) Price: $1.00

H.R. 1312/Pub. L. 101-204

Domestic Volunteer Service Act Amendments of 1989. (Dec. 7, 1989; 103 Stat. 1806; 23 pages) Price: $1.00

H.R. 2134/Pub. L. 101-205

To amend the Federal Meat Inspection Act and the Poultry Products Inspection Act to authorize the distribution of wholesome meat and poultry products for human consumption that are not in compliance with the Acts to charity and public agencies. (Dec. 7, 1989; 103 Stat. 1829; 3 pages) Price: $1.00

H.R. 3720/Pub. L. 101-206

National Consumer Cooperative Bank Amendments of 1989. (Dec. 7, 1989; 103 Stat. 1832; 1 page) Price: $1.00

S. 1164/Pub. L. 101-207

To authorize appropriations for fiscal year 1990 for the Office of the United States Trade Representative, the United States International Trade Commission, and the United States Customs Service. (Dec. 7, 1989; 103 Stat. 1833; 3 pages) Price: $1.00

S. 1877/Pub. L. 101-208

To improve the operational efficiency of the James Madison Memorial Fellowship Foundation, and for other purposes. (Dec. 7, 1989; 103 Stat. 1836; 2 pages) Price: $1.00

S.J. Res. 164/Pub. L. 101-209

Designating 1990 as the "International Year of Bible Reading". (Dec. 7, 1989; 103 Stat. 1838; 1 page) Price: $1.00

S.J. Res. 203/Pub. L. 101-210

Providing for the appointment of Homer Alfred Neal as a citizen regent of the Board of Regents of the Smithsonian Institution. (Dec. 7, 1989; 103 Stat. 1839; 1 page) Price: $1.00

S.J. Res. 202/Pub. L. 101-211

Providing for the appointment of Robert James Woolsey, Jr. as a citizen regent of the Board of Regents of the Smithsonian Institution. (Dec. 7, 1989; 103 Stat. 1840; 1 page) Price: $1.00

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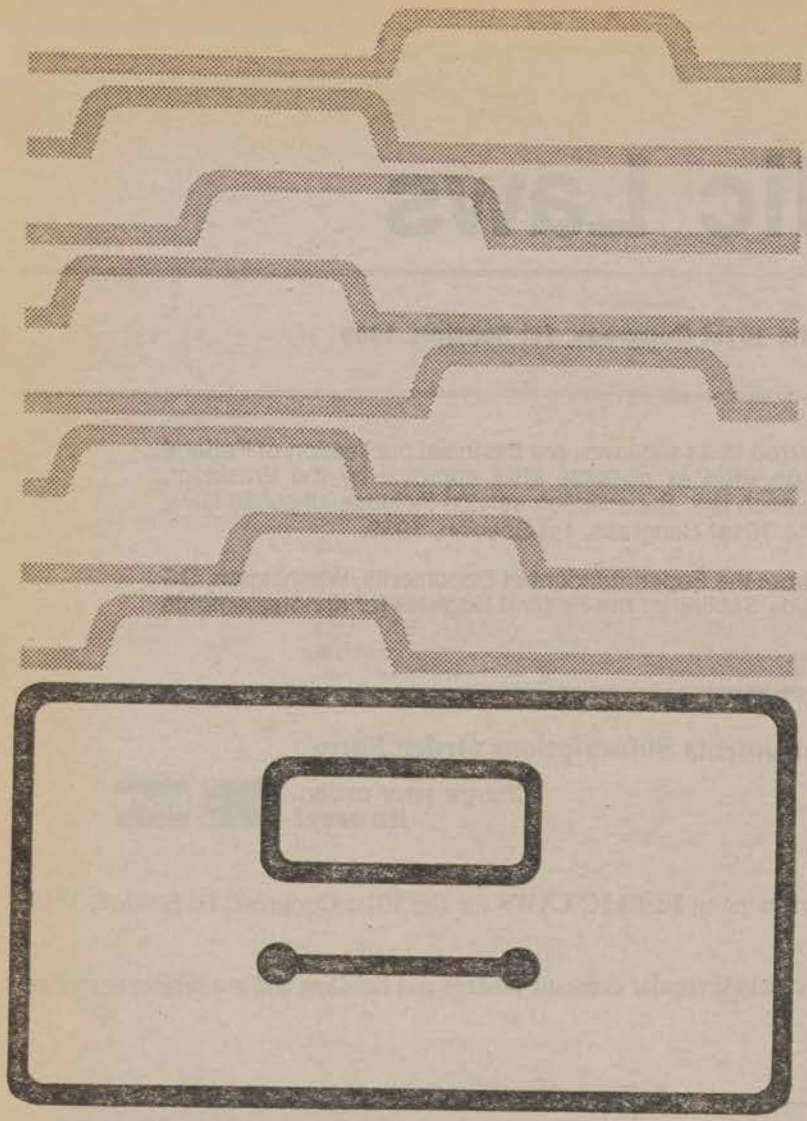

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