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Briefing on How To Use the Federal Register
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FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

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

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

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

WASHINGTON, DC

WHEN: January 30, at 9:00 a.m.
WHERE: Office of the Federal Register, First Floor Conference Room, 1100 L Street NW., Washington, DC.
RESERVATIONS: 202–523–5240.

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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

7 CFR Part 801

Official Performance Requirements for Grain Inspection Equipment

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: To maintain accuracy of field instruments in performing official inspection services, the Federal Grain Inspection Service (FGIS) is adopting as a final rule the provisions of an interim final rule which amended the regulations under the United States Grain Standards Act, as amended (USGSA) to include maintenance tolerances for near-infrared spectroscopy (NIRS) instruments used in testing soybeans for oil and protein content.

EFFECTIVE DATE: January 10, 1990.

FOR FURTHER INFORMATION CONTACT: Paul D. Marsden, Resources Management Division, USDA, FGIS, Room 0628 South Building, P.O. Box 96454, Washington, DC 20090–6454. Telephone (202) 475–3428.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This final rule has been issued in conformance with Executive Order 12291 and Departmental Regulation 1512–1. This action had been classified as nonmajor because it does not meet the criteria for a major regulation established by the Order.

Regulatory Flexibility Act Certification

W. Kirk Miller, Administrator, FGIS, has determined that this final rule will not have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) because most users of the official inspection and weighing services and those entities that perform those services do not meet the requirements for small entities.

Final Action

In the **Federal Register** of September 5, 1989, (54 FR 36751) FGIS published an interim final rule which amended § 801.8 of the regulations (7 CFR 801.7) under the USGSA to include maintenance tolerances for NIRS instruments used in testing soybeans for oil and protein content. As stated in the interim final rule, maintenance tolerances allow FGIS to maintain consistent accurcy of field instruments in performing official inspection services. The maintenance tolerance for the NIRS instruments used in performing official inspections for determination of soybean oil was established as ±0.20 percent, mean deviation from standard solvent extraction; and for determination of protein content was established as ±0.20 percent, mean deviation from standard Kjeldahl. The appropriateness of these values was verified in field testing by FGIS.

The interim final rule also stated that § 801.7 of the regulations would be renamed and the text expanded to include instrument maintenance tolerances for both the wheat protein instruments and the soybean oil and protein instruments. In addition, the provision for NIRS soybean wheat protein analyzers was revised to correspond to language that appears in the provision for NIRS soybean oil and protein analyzers.

The interim final rule provided interested persons with a 60-day period in which to submit written comments. (54 FR 36751) No comments were received.

Pursuant to 5 U.S.C. 553, it is also found and determined that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because: (1) This action adopts, without change, the provisions of an interim final rule in effect since September 4, 1989 (54 FR 36751); (2) a period of 60 days was provided for receipt of written comments and no comments were received; and (3) no useful purpose would be served by delaying the effective date of this final rule.

List of Subjects in 7 CFR Part 801

Export, Grain.

For reasons set out in the preamble, 7 CFR part 801 was amended as follows:

PART 801—OFFICIAL PERFORMANCE REQUIREMENTS FOR GRAIN INSPECTION EQUIPMENT

1. The authority citation for part 801 continues to read as follows:

Authority: Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*).

2. Section 801.7 is revised to read as follows:

§ 801.7 Tolerances for near-infrared spectroscopy (NIRS) analyzers and Kjeldahl analyzers.

(a) *NIRS wheat protein analyzers.* The maintenance tolerance for the NIRS analyzers used in performing official inspection for determination of wheat protein content shall be ±0.15 percent, mean deviation from standard Kjeldahl.

(b) *NIRS Soybean oil and protein analyzers.* The maintenance tolerance for the NIRS instruments used in performing official inspections for determination of soybean oil shall be ±0.20 percent, mean deviation from standard solvent extraction; and for determination of protein content shall be ±0.20 percent, mean deviation from standard Kjeldahl.

(c) *Kjeldahl.* The maintenance tolerance for Kjeldahl analyzers used in performing official inspection services shall be ±0.15 percent, standard deviation.

Dated: December 27, 1989.

D.R. Galliart,

Deputy Administrator.

[FR Doc. 90–585 Filed 1–9–90; 8:45 am]

BILLING CODE 3410–EN–M

Agricultural Marketing Service

7 CFR Part 907

[Navel Orange Regulation 700, Amdt. 1]

Navel Oranges Grown in Arizona and Designated Part of California

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation increases the quantity of California-Arizona navel

oranges that may be shipped to domestic markets during the period from December 29, 1989, through January 4, 1990. Consistent with program objectives, such action is needed to balance the supplies of fresh navel oranges with the demand for such oranges during the period specified. This action was recommended by the Navel Orange Administrative Committee (Committee), which is responsible for local administration of the navel orange marketing order.

DATES: Regulation 700, Amendment 1. (7 CFR Part 907) is effective for the period from December 29, 1989, through January 4, 1990.

FOR FURTHER INFORMATION CONTACT: Jacquelyn R. Schlatter, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Room 2523–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 382–1754.

SUPPLEMENTARY INFORMATION:

This amendment is issued under Marketing Order 907 (7 CFR part 907), as amended, regulating the handling of navel oranges grown in Arizona and designated part of California. This order is effective under the Agricultural Marketing Agreement Act of 1937, as amended, hereinafter referred to as the Act.

This final 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 the use of volume regulations on small entities as well as larger ones.

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 123 handlers of California-Arizona navel oranges subject to regulation under the navel orange marketing order and approximately 4,065 navel orange producers in California and Arizona. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. The majority of handlers and producers of California-Arizona navel oranges may be classified as small entities.

The California-Arizona navel orange industry is characterized by a large number of growers located over a wide area. The production area is divided into four districts which span Arizona and part of California. The largest proportion of navel orange production is located in District 1, Central California, which represented 85 percent of the total production in 1988–89. District 2 is located in the southern coastal area of California and represented 13 percent of 1988–89 production; District 3 is the desert area of California and Arizona, and it represented approximately 1 percent; and District 4, which represented approximately 1 percent, is northern California. The Committee's estimate of 1989–90 production is 79,800 cars (one car equals 1,000 cartons at 37.5 pounds net weight each), as compared with 70,633 cars during the 1988–89 season.

The three basic outlets for California-Arizona navel oranges are the domestic fresh, export, and processing markets. The domestic (regulated) fresh market is a preferred market for California-Arizona navel oranges. The Committee estimates that about 62 percent of the 1989–90 crop of 79,800 cars will be utilized in fresh domestic channels (49,500 cars), with the remainder being exported fresh (9 percent) or processed (29 percent). This compares with the 1988–89 total of 45,581 cars shipped to fresh domestic markets, about 64 percent of the crop.

Volume regulations issued under the authority of the Act and Marketing Order No. 907 are intended to provide benefits to growers. Growers benefit from increased returns and improved market conditions. Reduced fluctuations in supplies and prices result from regulating shipping levels and contribute to a more stable market. The intent of regulation is to achieve a more even distribution of oranges in the market throughout the marketing season.

Based on the Committee's marketing policy, the crop and market information provided by the Committee and other information available to the Department, the costs of implementing the regulations are expected to be more than offset by the potential benefits of regulation.

Reporting and recordkeeping requirements under the navel orange marketing order are required by the Committee from handlers of navel oranges. However, handlers in turn may require individual growers to utilize certain reporting and recordkeeping practices to enable handlers to carry out their functions. Costs incurred by handlers in connection with recordkeeping and reporting requirements may be passed on to growers.

Major reasons for the use of volume regulations under this marketing order are to foster market stability and enhance grower revenue. Prices for navel oranges tend to be relatively inelastic at the grower level. Thus, even a small variation in shipments can have a great impact on prices and grower revenue. Under these circumstances, strong arguments can be advanced as to the benefits of regulation to growers, particularly smaller growers.

At the beginning of each marketing year, the Committee submits a marketing policy to the U.S. Department of Agriculture (Department) which discusses, among other things, the potential use of volume and size regulations for the ensuing season. The Committee, in its 1989–90 season marketing policy, considered the use of volume regulation for the season. This marketing policy is available from the Committee or Ms. Schlatter. The Department reviewed that policy with respect to administrative requirements and regulatory alternatives in order to determine if the use of volume regulations would be appropriate. A "Notice of Marketing Policy" (notice), which summarized the Committee's marketing policy, was prepared by the Department and published in the October 19, 1989, issue of the Federal Register (54 FR 42966). The purpose of the notice was to allow public comment on the Committee's marketing policy and the impact of any regulations on small business activities.

The notice provided a 30-day period for the receipt of comments from interested persons. That comment period ended on November 20, 1989. Three comments were received. The Department is continuing its analysis of the comments received, and the analysis will be made available to interested persons. That analysis is assisting the Department in evaluating recommendations for the issuance of weekly volume regulations.

The Committee conducted a telephone vote on December 28, 1989, to consider the current and prospective conditions of supply and demand and unanimously recommended an increase in the quantity of navel oranges deemed advisable to be shipped to fresh

domestic markets during the specified week. The Committee reports that due to the recent freezes in Florida and Texas which have destroyed a large amount of those crops, orders for California-Arizona navel oranges have sharply increased. Retail outlets are cleaning out their inventories and retail promotions have been transferred from Florida and Texas citrus to California-Arizona navel oranges.

The Department reviewed the Committee's recommendation in light of the Committee's projections as set forth in its 1989–90 marketing policy. This recommended amount is 300,000 cartons more than estimated in the tentative shipping schedule adopted by the Committee on November 14, 1989. Of the 1,550,000 cartons, 1,472,000 are allotted for District I, and 78,000 are allotted for District 3. Districts 2 and 4 continue to be unregulated as it was felt that they would be unable to ship up to their allotment levels under regulation. Further consideration will be given to regulation of these two districts at next week's meeting.

During the week ending on December 21, 1989, shipments of navel oranges to fresh domestic markets, including Canada, totaled 1,911,000 cartons compared with 1,531,000 cartons shipped during the week ending on December 22, 1988. Export shipments totaled 364,000 cartons compared with 270,000 cartons shipped during the week ending on December 22, 1988. Processing and other uses accounted for 472,000 cartons compared with 363,000 cartons shipped during the week ending on December 22, 1988.

Fresh domestic shipments to date this season total 12,913,000 cartons compared with 9,581,000 cartons shipped by this time last season. Export shipments total 1,756,000 cartons compared with 925,000 cartons shipped by this time last season. Processing and other use shipments total 3,166,000 cartons compared with 2,319,000 cartons shipped by this time last season.

For the week ending on December 21, 1989, regulated shipments of navel oranges to the fresh domestic market were 1,804,000 cartons on an adjusted allotment of 1,827,000 cartons which resulted in net undershipments of 22,000 cartons. Regulated shipments for the current week (December 22 through December 28) are estimated at 805,000 cartons on an adjusted allotment of 627,000 cartons. Thus, overshipments of 178,000 cartons could be carried over into the week ending on January 4, 1990.

The average f.o.b. shipping point price for the week ending on December 21, 1989, was $7.56 per carton based on a reported sales volume of 1,564,000 cartons compared with last week's average of $7.69 per carton on a reported sales volume of 1,985,000 cartons. The season average f.o.b. shipping point price to date is $8.02 per carton. The average f.o.b. shipping point price for the week ending on December 22, 1988, was $8.55 per carton; the season average f.o.b. shipping point price at this time last season was $9.00 per carton.

The 1988–89 season average fresh equivalent on-tree price for California-Arizona navel oranges was $3.86 per carton, 65 percent of the season average parity equivalent price of $5.98 per carton.

Based upon fresh utilization levels indicated by the Committee and an econometric model developed by the Department, the point estimate of the 1989–90 season average fresh on-tree price would be $4.33 per carton. This is equivalent to 66 percent of the projected season average fresh on-tree parity equivalent price of $6.54 per carton. It is currently estimated that there is less than a one percent probability that the 1989–90 season average fresh on-tree price will exceed the projected season average fresh on-tree parity equivalent price.

Increasing the quantity of navel oranges that may be shipped during the period from December 29, 1989, through January 4, 1990, would be consistent with the provisions of the marketing order by tending to establish and maintain, in the interest of producers and consumers, an orderly flow of navel oranges to market.

Based on considerations of supply and market conditions, and the evaluation of alternatives to the implementation of this volume regulation, the Administrator of the AMS has determined that this final rule will not have a significant economic impact on a substantial number of small entities and that this action will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is further found and determined that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in further public procedure with respect to this action and that good cause exists for not postponing the effective date of this action until 30 days after publication in the Federal Register. This is because there is insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the Act.

In addition, market information needed for the formulation of the basis for this action was not available until December 28, 1989, and this action needs to be effective for the regulatory week which began on December 29, 1989. Handlers have been apprised of its provisions and effective time. It is necessary, therefore, in order to effectuate the declared purposes of the Act, to make this regulatory provision effective as specified.

List of Subjects in 7 CFR Part 907

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

For the reasons set forth in the preamble, 7 CFR part 907 is amended as follows:

1. The authority citation for 7 CFR part 907 continues to read as follows:

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

2. Section 907.1000 is revised to read as follows:

Note: This section will not appear in the annual Code of Federal Regulations.

§ 907.1000 Navel Orange Regulation 700, Amendment 1.

The quantity of navel oranges grown in California and Arizona which may be handled during the period from December 29, 1989, through January 4, 1990, is established as follows:

(a) District 1: 1,472,000 cartons;
(b) District 2: unlimited cartons;
(c) District 3: 78,000 cartons;
(d) District 4: unlimited cartons.

Dated: December 29, 1989.

Charles R. Brader,

Director, Fruit and Vegetable Division.

[FR Doc. 90–553 Filed 1–9–90; 8:45 am]

BILLING CODE 3410–02–M

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7 CFR Parts 907 and 908

[FV–90–111 FR]

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

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule authorizes expenditures and establishes 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.

EFFECTIVE DATES: November 1, 1989, through October 31, 1990.

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 final 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 final 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 than $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 Valencia 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 $0.025 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 $71,425 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 action will 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 will be significantly offset by the benefits derived from the operation of the marketing orders. Therefore, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

This action adds new §§ 907.227 and 908.229 and is based on the NOAC's and VOAC's recommendations and other information. A proposed rule was published in the December 13, 1989, issue of the **Federal Register** (54 FR 51202). Comments on the proposed rule were invited from interested persons until December 26, 1989. No comments were received.

After consideration of the information and recommendations submitted by the NOAC and VOAC and other available information, it is found that this final rule will tend to effectuate the declared policy of the Act.

The 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. In addition, handlers are aware of this action, which was recommended by the NOAC and VOAC

at public meetings. Therefore, it is found that good cause exists for not postponing the effective date of this action until 30 days after publication in the Federal Register (5 U.S.C. 553).

List of Subjects

7 CFR Part 907

Arizona, California, Marketing agreements, Navel, Oranges.

7 CFR Part 908

Arizona, California, Marketing agreements, Oranges, Valencia.

For the reasons set forth in the preamble, new sections 907.227 and 908.229 are added as follows:

Note: These sections will not appear in the annual Code of Federal Regulations.

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. Section 907.227 is added to read as follows:

§ 907.227 Expenses and assessment rate.

Expenses of $1,377,425 by the Navel Orange Administrative 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.

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

3. Section 908.229 is added to read as follows:

§ 908.229 Expenses and assessment rate.

Expenses of $709,730 by the Valencia Orange Administrative 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 a reserve.

Dated: January 5, 1990.

Charles R. Brader,

Director, Fruit and Vegetable Division.

[FR Doc. 90-628 Filed 1-9-90; 8:45 am]

BILLING CODE 3410-02-M

NUCLEAR REGULATORY COMMISSION

RIN 3150-AC12

10 CFR Parts 2 and 34

Safety Requirements for Industrial Radiographic Equipment

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule and modification of the general statement of policy and procedure for NRC enforcement.

SUMMARY: The Nuclear Regulatory Commission is amending its regulations that apply to industrial radiography. This rule requires licensees to use only radiographic exposure devices and associated equipment that provide certain additional safety features. This rule also requires radiographers to wear alarm ratemeters. These new requirements are intended to reduce radiation exposures to both radiography personnel and the general public from the use of radiographic equipment. These amendments affect persons licensed to perform industrial radiography and manufacturers of radiographic equipment. The amendments do not affect x-ray radiography or devices incorporating naturally occurring or accelerator produced radioactive material because the regulation of these items is not included in the Atomic Energy Act of 1954, as amended. In addition, the Commission is modifying its Enforcement Policy (10 CFR part 2, Appendix C) to add a specific example to Supplement VI to reflect the importance of meeting the requirements of the rule.

EFFECTIVE DATE: January 10, 1991. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 10, 1991.

FOR FURTHER INFORMATION CONTACT: Dr. Donald O. Nellis, Radiation Protection and Health Effects Branch, Division of Regulatory Applications, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 492–3628.

SUPPLEMENTARY INFORMATION:

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Appendix A—Regulatory Flexibility Analysis

On March 15, 1988, the Nuclear Regulatory Commission published for public comment a proposed rule (53 FR 8460) that would require NRC licensees to use radiographic exposure devices that meet the criteria specified in American National Standard N432, "Radiological Safety for the Design and Construction of Apparatus for Gamma Radiography," 1981 (Published as NBS Handbook 136) and a number of additional criteria that were recommended by an ad hoc equipment design safety task force. Other requirements included in the proposed rule were additional reporting requirements and a requirement for radiographers to wear alarm ratemeters with the alarm signal set at a dose-rate of 500 mR/hr. The purpose in proposing these amendments to the regulations was to reduce overexposures to both radiographers and the general public by specifying certain safety related performance requirements on radiographic exposure devices and by requiring radiographers to carry a supplemental radiation alarm monitor.

The public comment period was scheduled to end on May 16, 1988, but a number of requests for extension were received and the comment period was extended until August 16, 1988 (May 20, 1988; 53 FR 18096). All comments received were given full consideration.

Background

Industrial radiography is a technique of nondestructive testing that uses radioactive sources or x-rays to detect flaws in welds and cracks, breaks or other structural deficiencies in bridges, pipelines and manufactured articles. Most industrial radiography operations are conducted using gamma-ray emitting sources, although x-rays and neutrons can also be used. The procedure for taking radiographs is similar to the procedure used for taking medical x-rays except that a radioactive source is generally used in place of an x-ray machine. The operating principle of all of the devices is similar. Most radiography operations involve projecting a radioactive source out of its shielded position within the device; however, some devices, such as the so called "pipeliner," utilize a shutter to allow the radiation beam to exit from the device while the source remains in a shielded position within the device.

The general procedure used is as follows: First, a radiation sensitive film

is positioned over the area of interest on the item to be examined. Then a radiography exposure device or camera (which contains a sealed gamma-ray emitting source within a radiation shield) is placed nearby. A flexible hollow tube called a "guide tube" is connected to the front of the device, and the other end of the guide tube (to which an exposure head is attached) is positioned opposite the film on the item to be examined. Next, on the back of the device, a "control cable" is connected to the radiation source assembly, sometimes called a "pigtail" (a short length of wire with the source fastened on one end and a connector for the control cable on the other). Use of the "pigtail" allows the connection to be made without directly exposing the radiographer because the source itself remains in its shielded position within the device while the connection is being made. Lastly, a hollow tube through which the control cable moves is connected to the back of the device. The control cable and its tube are then unreeled until the cranking device for operating the cable is approximately ten to twenty feet from the device. This distance provides radiation protection for the radiographer. Next, the radioactive source is cranked or pushed from the radiographic device to the end of the guide tube. This causes the gamma rays from the source to penetrate the item under examination and expose the film. At the end of the desired exposure time, the source is cranked back into the device. A survey is made with a radiation detection device to ensure that the source assembly is in its shielded position. The source is then secured in this position and the film is retrieved for development. The radiographer is then ready to proceed with the next exposure. In some instances, what is referred to as "real time" radiography is performed. This merely involves replacing the film with remotely operated TV fluoroscopic equipment, solid state, or other suitable detection equipment that produces an image in real time without requiring development of a film.

Although the described procedure appears straightforward and most radiography is performed safely, radiation overexposures to radiographers and occasionally to the general public occur. Accidental radiation overexposures to both radiographers and the public have concerned both the NRC and the Agreement States because the radiation levels of the radioactive sources used in industrial radiography are sufficient to cause serious injury or death.

Industrial radiography performed in the field is of most concern. Unlike many other applications of ionizing radiation which are rigidly controlled and remote from the public, industrial radiography involves the use of high activity sources, sometimes in close proximity to the general public. The work which is often only under control of the radiographer is generally performed under production pressure and is often performed in adverse weather and environmental conditions. Such conditions can lead to both equipment failure and failure to follow proper safety procedures (e.g., failure to perform the required radiation survey or allowing assistant radiographers to perform the radiography themselves without the direct supervision of the more highly trained and skilled radiographer). Such failures, either singly or in combination, occasionally lead to radiation overexposures. Some of the failures of radiography licensees to follow NRC requirements have been documented in a recent NRC information notice.[1]

The NRC has been concerned about the number of radiation overexposures among radiographers for several years and has completed, has underway, or is considering, actions intended to reduce the frequency of the overexposures. These actions include: (a) Development of a training manual for radiography personnel to help ensure that they understand the need for, and the application of, good radiation protection practices, (b) development of NRC requirements to ensure that radiographers are adequately trained and are aware of their direct responsibility for safety performance, (c) increased inspection of workers performing actual radiography operations, (d) publication of guidance for reporting events to ensure that these reports include clear information concerning equipment failures when appropriate, and (e) the establishment of safety requirements for radiographic equipment.

Radiography Related Overexposures

NRC licensees are required to report radiation overexposures to the NRC. Based on overexposures reported to the NRC over the decade ending in 1984, industrial radiography has accounted for (1) more than one-half of the overexposures greater than 5 rems to the whole body or 75 rems to the extremities and (2) almost 60% of the overexposures greater than 25 rems to the whole body and 375 rems to the extremities. Over this same period, radiography accounted for almost 25% of all overexposures reported by NRC licensees.[2]

During the years 1979 through 1983, radiographer overexposures reported to the NRC and Agreement States combined accounted for 18% of all occupational overexposures, although radiographers represented only 4% of all radiation workers. Many additional incidents may have occurred which had the potential for serious overexposure from the high-intensity relatively high-energy gamma-ray sources used but did not require reporting.

Three incidents in foreign countries where children or adults have found lost radiography sources and have died from overexposure illustrate the extreme hazard potential involved in radiography overexposures. In other cases involving radiography sources, overexposures have caused acute effects such as burns and necrosis of body tissues. Some examples of incidents which show the extreme hazard potential are:

(1) *1979, California:* The source assembly was improperly connected or became disconnected and was cranked out of the end of the guide tube and fell to the ground. No radiation survey was made. An individual found the source and placed it in his hip pocket and carried it around for about 45 minutes. The individual suffered a severe radiation burn on his right buttock. In 1985, the individual still walked with difficulty and was under periodic medical evaluation. Ten other persons were exposed, two of whom developed radiation burns on their fingers.

(2) *1980, Texas:* The source assembly was not properly connected, and the source remained in the guide tube. A proper radiation survey was not made, and the source was stored in the coiled-up guide tube in a room adjacent to a work area. One radiographer received an overexposure of 75 rems, another person received an overexposure of 198 rems and thirty-one persons received exposures ranging from 0.09 to 4 rems. Had another radiography crew not discovered the next day that the source was missing from the device, many others could have been seriously exposed.

[1] NRC Information Notice No. 87-45: "Recent Safety Related Violations of NRC Requirements by Industrial Radiography Licensees," September 25, 1987. Single copies of this information notice may be obtained by telephone by interested persons at (301) 634-3273.

[2] The year 1984 is the most recent year for which complete exposure data has been tabulated for all NRC licensees.

(3) *1984, Texas:* An assistant radiographer received an overexposure of 7.5 rems for the calendar quarter. Investigation showed that the radiographer did not always lock the source after each exposure as required, nor did he always make the required radiation survey. Subsequent investigation also revealed that the source locking mechanism was defective.

(4) *1984, Morocco:* A source assembly became disconnected and fell to the ground. A laborer found it and took it home. Eight members of his family died from overexposure, and several others received significant doses.

(5) *1985, Wyoming:* The source assembly was not connected properly or became disconnected. The radiography crew failed to make the required radiation survey, and the source was stored in the coiled-up guide tube in the back of a pickup truck for 2 days. Three radiographers received exposures of 22, 7 and 0.6 rem respectively. One unbadged employee and six members of the general public received doses believed to be less than 0.5 rem each.

NRC studies of radiography exposure data indicate that radiography equipment problems contribute to approximately 40% of all reported overexposures. Equipment problems of the following types frequently play a contributing role:

(1) The source moves out of the shielded position after being cranked back into the device and before being locked, or the locking device is defective and fails to retain the source in the proper position.

(2) The source assembly is not properly connected or becomes disconnected, so that while it may be cranked out of its shielded position in the device, it cannot be retracted and remains in the guide tube.

(3) The source assembly is not properly connected or becomes disconnected and is cranked out through the end of the guide tube and drops to the ground.

(4) The source becomes stuck in the guide tube due to damage to the guide tube or due to fraying of the control cable.

All of these conditions could be recognized by performing a radiation survey after each radiographic exposure (to verify that the source is properly returned to its shielded position within the radiography device). Radiographers are required by the regulations in 10 CFR 34.43(b) to perform such a survey. In many cases, however, the radiation survey instrument is not used, is used incorrectly, or is defective. In Item (1) above, any overexposure would typically involve only the radiographers. In the remaining three items there is considerable potential for exposure to the public as well as to radiography personnel since the source, either on the ground or in the guide tube, has essentially no shielding.

Previous Regulatory Initiatives

In an effort to reduce the rate and severity of radiography overexposures attributable to equipment problems, the NRC published an Advance Notice of Proposed Rulemaking (ANPRM) on March 27, 1978, (43 FR 12718) announcing that it was undertaking the development of safety requirements for radiographic exposure devices that are licensed under 10 CFR part 34. Among the several comments received was the suggestion that the NRC delay further action on any rulemaking until completion of a related consensus performance standard. A voluntary consensus standard, National Bureau of Standards (NBS) Handbook 136, American National Standard N432, "Radiological Safety for the Design and Construction of Apparatus for Gamma Radiography" was issued by NBS in January 1981. The standard incorporates many of the safety design features proposed in the ANPRM; however, it is a voluntary consensus standard. Although there was no regulatory requirement for manufacturers to adopt the recommendations of the standard, recent amendments to 10 CFR parts 30 and 32 formalized NRC's source and device registration process and will ensure that future radiography devices that are registered with the NRC for the first time meet the requirements of the standard.

In March 1980 (partly as a result of a serious radiation accident that occurred in California in 1979, example 1 above), an ad hoc Radiography Steering Committee composed of NRC personnel and State officials representing the Conference of Radiation Control Program Directors, Inc., was formed to draft recommendations for improving radiography safety. Four task forces were subsequently established by the steering committee to address various aspects of the problem. These task force assignments were: Training and Certification, Radiographic Equipment Design Safety, Inspection, and Collection and Analysis of Incident Data.

In 1982, the NRC published a training manual for industrial radiographers,[3] and in 1984 the equipment safety task force presented its recommendations on performance criteria for radiographic exposure devices[4] to the Radiography Steering Committee and urged that the recommendations be added to the rules as soon as possible. These recommendations include many of the performance criteria specified in the census standard together with additional criteria.

The voluntary consensus standard ANSI N432, issued in 1981, is currently under review for possible revision. The revision is expected to incorporate many of the performance requirements in the international standard, ISO 3999, "Apparatus for Gamma Radiography Specification." Some of the performance requirements expected to be incorporated in the revised standard are the same as those recommended by the equipment task force. Publication of the revision of ANSI N432 as a final industry standard may take several years. When issued, NRC will consider if additional rulemaking is appropriate or necessary to incorporate the standard.

While American National Standard N432 has been available since 1981, it does not appear that all manufacturers are actually using the consensus standard nor does it appear that its provisions have been uniformly or completely implemented by radiography equipment manufacturers. Also, some of the equipment currently in use may have been manufactured prior to publication of the standard and may not meet its provisions. As a result, it is assumed that the voluntary consensus standard has had little effect on reducing the number or severity of radiography overexposures. Further, some of the equipment improvements recommended by the Radiography Steering Committee are not included in the standard.

NRC studies indicate that some 40% of the overexposure incidents involved equipment problems. Therefore regulatory action is needed at this time in order to reduce the number of radiography incidents and to prevent additional serious overexposures that are possible given the high radiation

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[3] NUREG/BR-0024, "Working Safely in Gamma Radiography," S.A. McGuire and C.A. Peabody, 1982. Copies of NUREG/BR-0024 may be purchased from the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 37082, Washington, DC 20013-7082. Copies are also available from the National Technical Information Service, U.S. Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161. A copy is available for inspection or copying for a fee in the NRC Public Document Room, 2120 L Street NW., Lower Level, Washington DC 20037.

[4] "Radiographic Equipment Safety Performance Criteria," D. Honey (CA), R. Ratliff (TX), R. Wascom (LA), S. Baggett, and A. Tse (NRC), April 30, 1984. For a copy of this report, see paragraph heading For Further Information Contact:

output of the sources used in the industry.

The Radiography Steering Committee also suggested that one means of reducing radiographer overexposures, caused by the failure to detect the return of the source to its properly shielded position in the radiographic exposure device, would be to require that radiographers wear alarm meters. These are radiation detection devices that provide an audible alarm at some preset dose or dose-rate or both.

Audible-alarm meters are especially useful when radiographers cannot hold survey meters because they need both hands to perform a job or when they cannot continually look at the survey meter because the operation they are performing requires them to look elsewhere. Alarm meters are not to be substituted for a radiation survey meter but are to be considered a complementary warning device. The use of audible-alarm meters is now a requirement for radiographer trainees in Canada and has proved useful according to Canadian officials.

NRC Regulatory Guide 8.28,[5] "Audible-Alarm Dosimeters", discusses a program for the appropriate use of audible-alarm meters. The term "audible-alarm dosimeters" as used in this guide refers to pocket sized radiation detectors that alarm when either a preset integrated exposure or a preset exposure rate is reached. They provide an audible warning to a radiographer when he or she is approaching an exposed source, so that actions can be taken immediately to minimize unnecessary radiation exposure. These dosimeters are used in nuclear power plants on a relatively widespread basis. Few, however, are used in the radiography industry in the United States. Alarm meters are considered reliable and hold up well with proper use. The steering committee recommended that audible-alarm rate meters be required in the final rule.

Public Comments

The NRC received a total of 88 public responses to the proposed rule. Some of the responses were duplicates, some were requests for an extension of the comment period, and some were responses not relevant to the proposed rule. The number of valid responses to the proposed rule was 68. The proposed amendments involved 26 separate items, and the average responder commented on at least 10 of the items. In addition, the American Society for Nondestructive Testing, Inc. submitted the results of a survey of 399 of its members regarding the proposed safety requirements for industrial radiographic equipment. All of the comments have been considered in preparing the final rule as described in the Analysis of Comments document which is available for review and copying for a fee at the NRC Public Document Room located at 2120 L Street NW., Lower Level, Washington, DC 20037.

Most of those commenting indicated that they approved of the NRC goals for improving the safety of radiography equipment, but many expressed differences of opinion on methods of obtaining these goals. Of the 26 items proposed, comments were equally divided on 2, opposed on 9, and in favor on 15. The principal comments and the NRC response for each of the proposed items are given below.

Section 34.20(a)—Radiographic Equipment Must Meet the Requirements of ANSI N432

Comment: Twenty-four comments were received on this provision, with the comments essentially divided. The main issue raised by commenters opposed to the requirement involved the maximum allowed radiation levels specified in the ANSI standard. Many felt that the added shielding required to meet the specified radiation levels would limit the portability of the devices and make them too heavy to handle. One commenter felt that meeting the radiation level requirements of the standard would not be cost effective and felt that the levels on present equipment were not a major contributor to exposure.

Response: The ANSI standard specifies a maximum radiation level of 50 mR/hr at 5 cm. Part 34 specifies a maximum radiation level of 50 mR/hr at 6 inches (15 cm) for radiographic exposure devices measuring less than four (4) inches from the sealed source to the surface. The existing limit of 50 mR/hr at 6 inches (15 cm) was established when lead was commonly used for shielding and most devices measured about 4 inches (10 cm) in radius. Surface levels, based only on the inverse square law, ignoring buildup and multiple scattering, would then be about 300 mR/hr. With the changeover from lead to depleted uranium shielding in the mid-1960's, it was possible to meet the requirement of 50 mR/hr at 6 inches with devices that measured on the order of 2 inches (5 cm) from source to surface of the device. Surface levels, based only on the inverse square law as stipulated above, would then be about 800 mR/hr. Some commenters have stated that measured surface levels have not exceeded 350 mR/hr, but it is not clear that they have corrected these measurements for the effective center of the detector used. Surface measurements on small packages or devices are prone to large errors and are difficult to perform correctly. For example, a true surface reading of 800 mR/hr on a device that measures only 2 inches (5 cm) from source to surface will read about 360 mR/hr at 1 inch from the surface, based on the inverse square law. Should the detector used to measure such a surface dose have an effective center of 1 inch, it would read 360 mR/hr for the surface dose rate. An additional problem concerns the size of the detector used to make the measurements. Large area detectors are not recommended for measuring surface dose rates, particularly on small packages or devices, since they provide average readings only and are not likely to detect small voids in shielding materials. The difficulty involved in making surface measurements is recognized in ANSI N432 in that section 8.1.2 specifies procedures for measuring exposure rates at 50 mm and 1 m from the surface, but no procedure is specified for making the surface measurement.

There is also a problem involving exposure when carrying the smaller devices. The dose rate to the gonads remains the same because the dose rate at 6 inches (15 cm), which is estimated to be the distance from the surface to the gonadal area, is specified to be 50 mR/hr regardless of the size of the device. The dose rate to the thigh (measured at 1 cm depth and assuming that the device is carried against the thigh), however, changes from 260 mR/hr for a device with the source 4 inches from the surface, to 555 mR/hr for a device with the source 2 inches from the surface. The average of two independent studies, one in France and one in the USA, indicates that radiography devices are carried about 6.25 minutes per day or 20.8 hours per year. Annual doses received at the thigh are 5.4 R for the older larger devices and 11.5 R for the newer smaller devices. These considerations, no doubt, led to specification of the external radiation levels specified in ANSI N432. It should be noted that these radiation levels were published in 1981, that identical levels have been part of the international standard ISO 3999 since 1977 and even lower levels are being

[5] Regulatory Guide 8.28 is available for inspection at the Commission's Public Document Room, 2120 L Street NW., Lower Level, Washington, DC 20037. Copies of the Regulatory Guide may be purchased by calling (202) 275–2060 or by writing to the Superintendent of Documents, U.S. Government Printing Office, Post Office Box 37082, Washington, DC 20013–7082.

proposed in the European community. The fact that radiographic exposure devices that meet the requirements of ANSI N432, including the external radiation levels specified, are now on the market, seems to refute the contention that such devices would be too heavy to handle. Most portable exposure devices now on the market weigh between 35 and 45 pounds, including those that meet the external radiation levels of the standard. It should also be mentioned that these radiation levels can be attained by use of lower strength radiation sources, although this alternative would imply additional costs because of more frequent source replacements. The provision in the final rule accordingly remains the same as in the proposed rule.

Section 34.20(b)(1)—Exposure Device Label

This provision requires the user to attach a label to the radiographic exposure device that would identify the radionuclide in the device, its activity on the date specified, its model number and serial number and the manufacturer of the sealed source.

Comment: Fourteen comments were received on this provision, with twelve approving. The negative comments indicated that the upkeep of the markings could be costly and that the isotope manufacturer must be responsible for providing the label to the user. One commenter proposed that the exposure device label should also include the name, address, and telephone number of its owner so that the proper persons could be contacted if the device became lost and then found.

Response: In current industry practice the manufacturer provides a plate to the device user with the source changer and the new source. It is the responsibility of the user to attach the plate containing the prescribed information to the radiographic exposure device. The NRC agrees that it would be desirable to include the name, address and telephone number of the owner on the label and is including this requirement in the final rule. It is the responsibility of the user to keep this information current. No other changes are being made to the proposed rule in regard to this provision.

Section 34.20(b)(2)—Exposure Devices Intended as Type B Transport Containers to Meet Part 71 Requirements

Comment: There were no negative comments on this provision. Some commenters mentioned that their devices already met this requirement.

Response: No change is to be made in this provision.

Section 34.20(b)(3)—Modification of Exposure Devices and Associated Equipment is Prohibited

Comment: No negative responses were received on this provision. One manufacturer asked if this implies that no modifications may be made without resubmission of designs to the proper NRC or Agreement State authority.

Response: The purpose of this provision is to prohibit modifications by users that could compromise the safety of the device. One example would be the use of a source assembly different from that approved by the device manufacturer and which does not meet the QA and QC requirements of the specified source assembly. This provision is not intended to impose design restrictions on manufacturers. However manufacturers would need NRC approval of modified designs prior to distribution of the new devices. The provision stands as originally stated.

Section 34.20(c)(1)—Source Assembly—Control Cable Connection

The purpose of this provision was to require a coupling between the source assembly and the control cable such that the possibility of an unintentional disconnect could not occur. The recommendation of the equipment task force mentioned previously was that the coupling should require the application of motion in two planes and a positive force in one of these planes to complete the connection.

Comment: Twenty-two comments were received, fifteen for and seven against the provision. Several commenters from each side indicated that the wording should be changed from technical specifications to performance requirements. They suggested that the wording be patterned after the wording used in the regulations issued by the State of Texas. Basically, these regulations require that the connection shall be designed in such manner that the source assembly will not become disconnected if cranked outside of the guide tube. Most commenters felt that the technical specifications listed in the present wording could prevent designers from developing a connector that would provide the best performance possible.

Response: This suggestion was adopted, and the wording of the provision has been changed to reflect the performance requirement approach used by the State of Texas. Also, NRC's source and device registration process will ensure compliance with this performance requirement by requiring NRC approval before the newly designed connectors could be used.

Section 34.20(c)(2)—Require a Readily Visible Source Position Indicator

The purpose of this provision was to provide the radiographer with additional or supplemental information concerning the position of the radioactive source. It was not intended as a substitute for the use of a survey meter but rather to provide supplementary information much as does a warning light on the gas gauge of an automobile.

Comment: Forty-two comments were received on this provision, four approved and thirty-eight opposed the provision. Most of those commenting against it felt that the indicator would not be foolproof, could easily fail, and would lead radiographers to neglect the use of the survey meter. Three commenters stated that the indicators on some of the devices now in use are not completely reliable and have not proven to be fail-safe. Three indicated that they did not think it would increase safety. Others pointed out that most indicators only indicated the position of the source assembly and would not be of use if the source separated from the assembly. Two of those approving the provision noted that the position indicator should only be relied upon as a guide.

Response: This particular item has long been controversial. At a 1978 NRC meeting convened to discuss the design of radiographic exposure devices, it was generally agreed that it was not possible to design a position indicator that could not fail. It was also pointed out at this meeting that source position indicators consisting of red and green lights were installed on some devices as early as 1958. These failed so frequently that the NRC asked manufacturers to remove them. Also, a provision for such an indicator has been proposed for inclusion in the next revision of the International Radiography Standard, ISO 3999, by the French delegation, but there appears to be little support for this from other countries. In view of the continued opposition and past experience with these indicators, the NRC has removed the provision.

Note: Proposed paragraph § 34.20(c)(2) has been deleted. It should be noted that proposed rule paragraphs § 34.20(c)(3) through § 34.20(c)(10) as discussed below, are designated as paragraphs § 34.20(c)(2) through § 34.20(c)(9) in the text of the final rule.

Section 34.20(c)(3)—Automatic Securing of Source Assembly

This provision provides a system to automatically secure the source assembly in the shielded position each time it is cranked back into the exposure device. The provision eliminates the manual securing which is now required under § 34.22(a) of the current regulations. The provision helps eliminate the problem of the source accidentally moving out of the fully shielded position after it has been cranked back into the device.

Comment: Thirty-two comments were received on this provision, seven in favor and twenty-five opposed. The majority of those opposed appeared concerned with the additional maintenance needed to keep the automatic securing system operating properly. Four were opposed on the basis of cost. Three pointed out that it could easily be bypassed. One commenter pointed out that existing devices with this provision have failed, and two indicated that the source could be locked outside the device instead of inside. Several also expressed concern that the provision would discourage the use of the survey meter. One commenter would like to include the option of unsecuring the source remotely.

Response: The NRC does not agree that the automatic securing provision will cause all the problems raised by commenters. Some of the incidents involving overexposures caused by the source slipping out of its shielded position are due to failure of the radiographer to manually secure the source after each exposure as required by current regulations, or due to excessive wear caused by radiographers using foot operation rather than hand operation in the manual securing. As for the statements regarding by-passing the automatic securing and discouraging the use of survey meters, the NRC does not believe many persons will deliberately by-pass or ignore such beneficial measures. Appropriate maintenance, coupled with adequate QA and QC programs, which should be included in the licensee's operations, should eliminate any serious problems with this provision. It should be noted also that the automatic securing reduces the workload on the radiographer by eliminating the manual securing requirement. The provision remains as proposed.

Section 34.20(c)(4)—Require Safety Plugs or Covers

The purpose of this provision is to prevent the access of water and other matter into the device where they could contribute to malfunctions and wear.

Comment: Sixteen comments were received on this provision, all favorable. One commenter approved on the condition that the covers or plugs were not integrated as a working, moving function of the device. Another commenter wanted the device to be equipped with a receptacle to hold the plugs or covers and keep them clean. A third commenter felt that the equipment should be required to perform satisfactorily under conditions of mud, sand, water, etc., and leave it up to the manufacturer to determine if plugs or covers were needed to acheive this.

Response: General design conditions under section 5.1 of ANSI N432 presently call for the exposure devices to be designed with due regard for the need to minimize the entry of water, mud, sand or other foreign matter into the controls or moving parts during use. The NRC feels that the use of appropriate plugs or covers during storage or transportation is also necessary but agrees that these need not be integrated into the device. Receptacles for the plugs or covers should be an option of the manufacturer. No change is made in the requirement.

Section 34.20(c)(5)—Labelling of the Source or Source Assembly

The purpose of this provision is to help minimize overexposures that could occur if a member of the public finds a lost source assembly.

Comment: Twelve comments were received with eleven in favor. One commenter was concerned that the label might interfere with the operation of the lock or the guide tube. The commenter who was opposed felt that this was not practical and that we should see if it could be done successfully before making it a regulation.

Response: This provision was made part of Texas regulations on October 1, 1987. Early attempts to use heat shrinkable plastic or soft metal sleeves were not successful. The current method used by most manufacturers involves laser etching of the source assembly. The requirement will remain as written in the proposed rule with the understanding that laser etching or any other successful method will be acceptable.

Section 34.20(c)(6)—Guide Tube Crushing Tests and Kinking Resistance Test

The purpose of this provision is to prevent the source assembly from hanging up in the guide tube and creating a condition that could lead to radiation overexposures. The crushing tests for control tubes as specified in ANSI N432 should be used for the guide tubes.

The proposed revision to ANSI N432 has a kinking test for such guide tubes, and the NRC would find this test acceptable for meeting the requirements of this section. The test referred to is described in its entirety as follows:

> Place the projection sheath (guide tube) without connection, on a horizontal surface and fix one of the ends so that it does not move in any way during the test. The length of the projection sheath shall be the maximum length authorized by the manufacturer.
>
> Form a flat closed loop, either on the right or left of the positioning axis, with the fixed end under the loop, and keep the ends crossed by means of a hoop so that the loop cannot come undone under the action of a vertical component of elasticity and the free end can still slide without noticeable friction.
>
> Apply a tractive force to the free end, at a tangent to the loop, reducing the diameter of the loop. The force shall be applied by means of a dynamometer in such a way that it reaches 200 N in 5 seconds. The force shall be maintained at this level for 10 seconds.
>
> Repeat the test 10 times, undoing and redoing the loop at the same point for each test.
>
> If the projection sheath is composed of various parts with connections, restart the test including a connection in the loop. Close the loop as above so that the connection and the crossing point are opposite each other.

Comment: Ten comments were received on this provision, eight approving, two opposed. Those opposing were persons in the aircraft industry who objected that the special guide tubes they required would not withstand the specified tests.

Response: Persons who have special requirements should apply to the NRC under § 34.51 for an exemption of the requirement. The provision is unchanged.

Section 34.20(c)(7)—Requirement to Use Guide Tubes

The purpose of this provision is to ensure that the source assembly will not be cranked out of the camera and fall to the ground.

Comment: Three comments were received, all approving.

Response: The provision is unchanged.

Section 34.20(c)(8)—Requirement for the Use of Exposure Heads

The purpose of this provision is to prevent the source assembly from passing out of the end of the guide tube.

Comment: Eight comments were received on this provision, all favorable.

Response: The provision is unchanged.

Section 34.20(c)(9)—Require Guide Tube Exposure Head Tensile Test

The purpose of this provision is to ensure that the exposure head will not easily become dislodged in use.

Comment: Two comments, both favorable, were received on this provision.

Response: The provision is unchanged.

Section 34.20(c)(10)—Source Changers

The purpose of this provision is to prevent exposure of persons when making a source change.

Comment: Three comments were received on this provision. One commenter believed the source changer design to be adequate. One commenter believed that most source changers left something to be desired. One believed that source changers should not be included in this section.

Response: Because source changers fall within the category of associated equipment, the NRC does not believe that this provision should be relocated. The wording of the final provision has been changed, however, to require a system to assure that the source is not accidentally withdrawn from the changer when connecting or disconnecting the drive cable to or from a source assembly.

Section 34.20(d)—Compliance of New Devices with § 34.20 After One Year

The purpose of this requirement is to ensure all newly manufactured devices acquired by licensees meet the performance requirements of § 34.20 (a) thru (c) after 1 year from publication of the final rule in the **Federal Register**.

Comment: One commenter requested the compliance not be required for two to two and one-half years. Some other commenters expressed doubt that manufacturers could meet the requirements in one year. One commenter noted that there was only one type 1R device for iridium sources and none for cobalt sources available in the U.S. at the present time.

Response: The requirement has been changed to require compliance after one year from the effective date of the final rule.

Section 34.20(e)—All Devices in Use to Comply with § 34.20 After Five Years

The purpose of this provision is to require that all radiographic exposure devices meet all of the provisions of § 34.20 after five years or be retired from use.

Comment: Twenty-seven comments were received on this provision, 2 in favor and 25 opposed. Most of the comments objecting to the provision challenged the average lifetime of 5 years for the devices, citing for the most part a 10 to 15 year lifetime. The other major objection was the cost, with one commenter citing a value of over $630,000. One commenter had reservations about setting a time limit for compliance, especially when working models for some of the provisions have yet to be developed and tested. Another stated that there is no projection device for cobalt presently available in the U.S. that meets the standard and that current devices, which cost around $15,000, would have to be replaced in 5 years.

Response: While many of the commenters feel that this provision poses an excessive financial burden to users and could result in premature replacement of safe and useful equipment, this view is not shared by the NRC.

The NRC is aware that retrofitting of existing radiographic exposure devices to meet the requirements of the rule is not practical and that meeting the requirements of the rule involves the purchase of new equipment that meets all the requirements.

The NRC is aware that the radiography industry is in a period of recession and that, as a result, many smaller radiography firms have gone out of business. A side-effect of this depressed state of the industry has been the creation of a large market in used radiographic exposure devices.

The choice of five years was based upon discussions with equipment manufacturers and upon NRC experience which indicated that the average lifetime of devices which project a source out of a shielded position is around five years. The NRC recognizes, however, that the average life expectancy is dependent upon the design of the device, the amount of use, the environment at the use site, and the quality of the maintenance program. The choice of a five year implementation period for the rule rather than a more accelerated period was made for a number of reasons. Radiography exposure device manufacturers would probably be unable to manufacture 3500 devices meeting the requirements of the rule in a much shorter time; the 5 year period avoids imposing a severe financial impact on the radiography industry, particularly on the small entities; and the number of radiography overexposures occurring per year does not appear to justify a shorter implementation period.

In addition, the gradual use of new models is advisable since additional training will be required for radiographers, and user licensees need additional time to evaluate new models as they become available to assure that they meet expectations under operational field conditions.

The NRC is concerned that many of the devices now in use by the industry may be from 10 to 20 years old. The devices may no longer be in production, and replacement parts may not be available. Emphasis of this point is shown by the intent of one of the larger device suppliers to issue a notice phasing out of service, over a period of 3 years beginning in 1989, certain of the devices it normally services because of unavailability of replacement parts. The NRC believes that many other devices with similar problems not subject to this notice are also in use in the marketplace. This provision will help to phase out of use such unserviceable and possibly unsafe devices. While conceding that the lifetime of many devices may be as much as 10 years, the NRC believes that many of the devices currently in use need to be replaced with devices meeting the criteria of the rule to protect the public health and safety. With regard to the charge that compliance with the new rule would constitute an excessive financial burden, it should be pointed out that all equipment in use at the time of publication of the proposed rule will have been in service for a period of more than 7 years at the date required for compliance and would, therefore, also have been eligible for a 7 year application of its depreciation allowance. This allowance would seem to appreciably reduce the financial burden claimed by the commenters. In addition, the regulatory analysis for this rule indicates that the cost to the industry resulting from implementation of this provision of the rule is of the order of $4 million on a 1989 present worth basis calculated over the 10 year interval from 1990 to 1999. The cost to the individual licensee resulting from implementation of this provision of the rule over the same ten year period is $3636. Annual costs over this 10 year period are therefore $400,000 for the industry and $364 for individual licensees. In view of these arguments, the provision remains as proposed except that the five year period will begin after the effective date of the final rule.

Section 34.21—Limit on External Radiation Levels

The purpose of this provision is to allow equipment received prior to one year after the effective date of the rule to meet the existing radiation levels of the present § 34.21 now redesignated

§ 34.21(a). After a period of five years from the effective date of the final rule, all radiographic equipment except source changers and storage containers will be required to meet the requirements of § 34.20. Source changers and storage containers continue to be regulated under § 34.21(a).

Comment: Five comments were received on this provision, three approving and two opposed. The principal comments were that reduction of external radiation levels would not be cost effective and that existing levels have not proven to be a radiological health hazard.

Response: The issue of external radiation levels is extensively discussed in the response to § 34.20(a) and will not be repeated here. The final version of § 34.21 will change from that in the proposed rule to the extent that the requirements will become effective 5 years after the effective date of the final rule rather than 5 years after publication of the final rule.

Section 34.30—Reporting Requirements

The purpose of this provision is to provide the NRC with information on problems experienced with radiographic equipment.

Comment: Sixteen comments were received, six in favor and ten opposed. The principal comments were that item one, involving source disconnects, and item two, involving inability to retract the source, were reasonable reporting items. However, the requirement to report about item three, failure of any component to perform its function, was unclear, open ended, and could lead to large volumes of required reports. Other commenters believed that the costs would be prohibitive and still others commented that licensees would simply refuse to comply with these reporting requirements. One commenter felt that reporting of defective equipment should be reported under 10 CFR part 21.

Response: These requirements are separate and distinct both in content and purpose from those contained in 10 CFR part 21, "Reporting of Defects and Noncompliance" which implements section 206 of the Energy Reorganization Act of 1974, as amended. By specifying conditions for reporting defects or noncompliance of radiographic equipment under this provision any ambiguity resulting from interpretation of part 21 provisions is avoided.

The NRC agrees that item three was ambiguous and has rewritten it to apply only to components critical to safe operation of the device. The NRC does not agree with those commenters who believed that a large volume of reports would be required along with the correspondingly high costs associated with generating such reports.

Section 34.33(a)—Require Wearing of an Alarm Ratemeter

This provision is intended to provide radiographers in the field with a duplicative or redundant device as a backup to the survey meter the radiographer is supposed to carry.

Comment: Fifty comments were received on this provision, eighteen approved, thirty-two were opposed. The principal comments of those approving the provision were that the rule should specify an alarm ratemeter instead of dosimeter, that state-of-the-art chirpers should be allowed, that the trigger level of 500 mR/hr was too high, (this is addressed in § 34.33(f)) and that they can malfunction and read zero. One commenter felt that there should also be a requirement that the alarm should go off if the ratemeter is subjected to radiation saturation.

Comments of those opposing the provision were that radiographers will rely on the alarm ratemeter and not use the survey meter, that two-man crews should be required instead, that survey meters with audible alarms should be used instead, that alarm ratemeters do not work in noisy environments and that they cost too much. Others believed that management and regulatory agencies needed to enforce proper procedures instead of requiring alarm ratemeters. One commenter believed that a hearing test should be required of individuals wearing alarm ratemeters. Another commenter believed that they were completely unnecessary for permanent facilities and that an exemption from this provision should be granted for such facilities.

Response: The purpose of this provision is to provide an additional warning of possible hazardous radiation levels in the event the survey meter is defective or misread in much the same manner that buzzers and lights provide backup warning in automobiles of low or almost empty gas tanks for those who ignore or misread their fuel gauge. It is felt that as warning devices, alarm ratemeters may be able to prevent many overexposures that have occurred as a result of improper surveys.

The NRC does not agree with the assumption that radiographers will neglect using survey meters and depend on the alarm ratemeter, nor does it agree that the use of two-man radiography crews will eliminate the need for alarm dosimeters. One of the most recent overexposure incidents involved a two-man crew that was operating with a defective survey meter. Had the crew been using alarm ratemeters, at least one of the radiographers would have been alerted to the abnormal radiation fields present. Survey meters with audible alarms do not provide the same redundancy that separate alarm ratemeters do, primarily because the alarm is connected to the survey meter output and if the survey meter fails, so does the audible alarm. In regard to radiation saturation, most of the alarm ratemeters or alarm dosimeters meet the standard for these devices, ANSI N13.27, which specifies that exposure alarms shall continue to operate in radiation fields one thousand times higher than the highest alarm setpoint. Typical alarm ratemeters have upper level settings of 10R/hr or greater. Most alarm ratemeters on the market also integrate the exposure and generally provide a chirp for every mR accumulated.

Alarm ratemeters and dosimeters are required to have a sound pressure level of 75 dBA at 30 cm from the device according to ANSI N13.27. This is roughly comparable to the sound of busy street traffic. Although the alarm may not be detectable in high noise environments, radiographers should continue to keep such alarm ratemeters activated and continue to carry an operable and properly calibrated radiation survey meter regardless of the environment.

In regard to the comment that alarm ratemeters are unnecessary for permanent facilities, the NRC believes that the use of such alarm ratemeters should not be required for permanent facilities where other alarming or warning devices are in routine use to warn personnel of high radiation fields. The provision has been rewritten to include this exemption. It should be noted, however that the converse is not acceptable. The wearing of alarm ratemeters at permanent facilities cannot be used as a substitute for other alarming or warning devices at such facilities.

Section 34.33(f)(2)—Alarm Ratemeters Must Alarm at a Preset Level of 500 mR/hr

The purpose of this provision was to set the alarm high enough that the alarm dosimeter will not alarm unnecessarily during normal radiography operations and still provide a reliable alarm before a radiographer could get within 10 feet of a lower activity (10 Ci) unshielded source.

Comment: Thirteen comments were received on this requirement. All thirteen were opposed. The principal comments were that the trigger level was too high for most working conditions and that the trigger level was

too high to check conveniently on a daily basis without the use of a large check source that would require a specific license. One commenter pointed out that around power facilities 500 mR/hr was too low and recommended a trigger level of 100–200 mR/hr above the ambient background rate.

Response: Radiographers routinely work with radioactive sources whose activities are sufficient to create high radiation areas (100mR/hr), and radiographers are required to post the boundaries of the high radiation areas with appropriate signs (§ 20.203(c)) and survey the restricted area boundary. Also, calculations based on the inverse square law show that for a 200 Ci Iridium source the radiation field at a normal operator's position (with 21-foot guide tube and 25-foot control tube) is approximately 430 mR/hr. Trigger levels of much less than the 500 mR/hr specified would then trigger an alarm under normal radiography exposures. Also, alarm ratemeters that trigger while radiographers are conducting normal operations would prove annoying and would likely be turned off. In view of these conditions, the trigger level should be set at 500 mR/hr. Those licensees that have a problem with this provision due to the need to work at nuclear power facilities where higher radiation levels may exist, may apply for an exemption under § 34.51.

With regard to the requirement to check the dosimeter alarm at 500 mR/hr on a daily basis, the provision has been rewritten to require a calibration on an annual basis instead. The requirement for a daily check on the alarm remains unchanged. This can be provided by an electronic check point that corresponds approximately to the response of a 500 mR/hr field.

Modification of Enforcement Policy

The Commission is modifying its General Statement of Policy and Procedure for NRC Enforcement Actions, 10 CFR part 2, Appendix C (Enforcement Policy), to reflect the Commission's amendment of 10 CFR part 34. The change to the Enforcement Policy is being published concurrently with the new rule.

The modification to the Enforcement Policy is being made at this time to Supplement VI, "Fuel Cycle and Materials Operations", to put licensees on notice that the failure to implement the requirements for dosimetry and equipment by the required date may be considered a violation of significant regulatory concern. The example is to be used as guidance in considering Severity Level III violations of the requirements. The example for Severity Level III is significant because it represents failures associated with the use of equipment and dosimetry designed to minimize overexposures from radioactive materials.

Finding of No Significant Environmental Impact: Availability

The Commission has determined under the National Environmental Policy Act of 1969, as amended, and the Commission's regulations in subpart A of 10 CFR part 51, that this rule is not a major Federal action significantly affecting the quality of the human environment, and therefore, an environmental impact statement is not required.

The final rule involves engineering design modifications to industrial radiography devices and requires licensees to use only radiography devices and associated equipment that provide certain additional safety features. Radiographers are required to wear alarm ratemeters. No requirements for significant quantities of materials, water, electricity or other forms of energy have been identified, and no environmental or radiation impacts are involved.

The environmental assessment and finding of no significant impact on which this determination is based are available for inspection at the NRC Public Document Room, 2120 L Street NW., Lower Level, Washington, DC. Single copies of the environmental assessment and the finding of no significant impact are available from Dr. Donald O. Nellis, Radiation Protection and Health Effects Branch, Division of Regulatory Applications, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 492–3628.

Paperwork Reduction Act Statement

This final rule amends information collection requirements that are subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). These requirements were approved by the Office of Management and Budget, approval number 3150–0007.

Public reporting burden for this collection of information is estimated to average 0.34 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Records and Reports Management Branch (P–530), U.S. Nuclear Regulatory Commission, Washington, DC 20555; and to the Paperwork Reduction Project (3150–0007), Office of Management and Budget, Washington, DC 20503.

Regulatory Analysis

The Commission has prepared a regulatory analysis on this final rule. The analysis examines the costs and benefits of the alternatives considered by the Commission. The regulatory analysis is available for inspection in the NRC Public Document Room, 2120 L Street NW., Lower Level, Washington, DC. Single copies may be obtained from Donald O. Nellis, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 492–3628.

Regulatory Flexibility Analysis

The NRC has prepared a final regulatory flexibility analysis of the impact of this rule on small entities as required by section 604 of the Regulatory Flexibility Act. The analysis, which is set out in Appendix A of this document, indicates that this rule could have an economic impact of about $5,113 initially, and $1,188 annually on each radiography licensee, 90% or more of which are considered to be small entities. These costs are not considered to be overly burdensome in light of the possible benefits derived.

Backfit Analysis

This final rule does not modify or add to systems, structures, components, or design of a facility; the design approval or manufacturing license for a facility; or the procedures or organization required to design, construct or operate a facility. Accordingly, NRC has determined that the backfit rule 10 CFR 50.109 does not apply to this final rule.

Therefore, a backfit analysis is not required for this final rule because these amendments do not involve provisions which impose backfits as defined in 10 CFR 50.109(a)(1).

List of Subjects

10 CFR Part 2

Administrative practice and procedure, Antitrust, Byproduct material, Classified information, Civil penalty, Enforcement, Environmental protection, Nuclear materials, Nuclear power plants and reactors, Penalty, Sex discrimination, Source material, Special nuclear material, Violations, Waste treatment and disposal.

10 CFR Part 34

Byproduct material, Incorporation by reference, Packaging and containers,

Penalty, Radiation protection, Radiography, Reporting and recordkeeping requirements, Scientific equipment, Security measures.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 553, the NRC is adopting the following amendments to 10 CFR part 2 and 10 CFR part 34:

PART 2—RULES OF PRACTICE FOR DOMESTIC LICENSING PROCEEDINGS

1. The authority citation for part 2 continues to read in part as follows:

Authority: Sec. 161, 68 Stat. 948, as amended (42 U.S.C. 2201); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841). * * *

2. Appendix C, Supplement VI, is amended by adding example 9 to paragraph C to read as follows:

Appendix C—General Statement of Policy and Procedure for NRC Enforcement Actions

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Supplement VI—Severity Categories

C. Severity III. * * *

9. Failure, during radiographic operations, to have present or use radiographic equipment, radiation survey instruments, and/or personnel monitoring devices as required by part 34.

PART 34—LICENSES FOR RADIOGRAPHY AND RADIATION SAFETY REQUIREMENTS FOR RADIOGRAPHIC OPERATIONS

1. The authority citation for part 34 is revised to read as follows:

Authority: Secs. 81, 161, 182, 183, 68 Stat. 935, 948, 953, 954, as amended (42 U.S.C. 2111, 2201, 2232, 2233); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

Section 34.32 also issued under sec. 206, 88 Stat. 1246 (42 U.S.C. 5846).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273); §§ 34.20(a)–(e), 34.21 (a) and (b), 34.22, 34.23, 34.24, 34.25 (a), (b), and (d), 34.28, 34.29, 34.31 (a) and (b), 34.32, 34.33 (a), (c), (d), and (f), 34.41, 34.42, 34.43 (a), (b), and (c) and 34.44 are issued under sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b); and §§ 34.11(d), 34.25 (c) and (d), 34.26, 34.27, 34.28(b), 34.29(c), 34.30, 34.31(c), 34.33 (b) and (e) and 34.43(d) are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

2. A new § 34.20 is added under the Equipment Control heading in subpart B to read as follows:

§ 34.20 Performance requirements for radiography equipment.

Equipment used in industrial radiographic operations must meet the following minimum criteria:

(a) Each radiographic exposure device and all associated equipment must meet the requirements specified in American National Standard N432–1980 "Radiological Safety for the Design and Construction of Apparatus for Gamma Radiography," (published as NBS Handbook 136, issued January 1981). This publication has been approved for incorporation by reference by the Director of the Federal Register in accordance with 5 U.S.C. 552(a). This publication may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 and from the American National Standards Institute, Inc., 1430 Broadway, New York, New York 10018, Telephone (212) 642–4900. Copies of the document are available for inspection at the Nuclear Regulatory Commission Public Document Room, 2120 L Street NW., Lower Level, Washington, DC 20555. A copy of the document is also on file at the Office of the Federal Register, 1100 L Street NW., Room 8301, Washington, DC 20408.

(b) In addition to the requirements specified in paragraph (a) of this section, the following requirements apply to radiographic exposure devices and associated equipment.

(1) Each radiographic exposure device must have attached to it by the user, a durable, legible, clearly visible label bearing the—

(i) Chemical symbol and mass number of the radionuclide in the device;

(ii) Activity and the date on which this activity was last measured;

(iii) Model number and serial number of the sealed source;

(iv) Manufacturer of the sealed source; and

(v) Licensee's name, address, and telephone number.

(2) Radiographic exposure devices intended for use as Type B transport containers must meet the applicable requirements of 10 CFR part 71.

(3) Modification of any exposure devices and associated equipment is prohibited, unless the design of any replacement component, including source holder, source assembly, controls or guide tubes would not compromise the design safety features of the system.

(c) In addition to the requirements specified in paragraphs (a) and (b) of this section, the following requirements apply to radiographic exposure devices and associated equipment that allow the source to be moved out of the device for routine operation.

(1) The coupling between the source assembly and the control cable must be designed in such a manner that the source assembly will not become disconnected if cranked outside the guide tube. The coupling must be such that it cannot be unintentionally disconnected under normal and reasonably foreseeable abnormal conditions.

(2) The device must automatically secure the source assembly when it is cranked back into the fully shielded position within the device. This securing system may only be released by means of a deliberate operation on the exposure device.

(3) The outlet fittings, lock box, and drive cable fittings on each radiographic exposure device must be equipped with safety plugs or covers which must be installed during storage and transportation to protect the source assembly from water, mud, sand or other foreign matter.

(4) Each sealed source or source assembly must have attached to it or engraved in it, a durable, legible, visible label with the words: "DANGER—RADIOACTIVE." The label must not interfere with the safe operation of the exposure device or associated equipment.

(5) The guide tube must have passed the crushing tests for the control tube as specified in ANSI N432 and a kinking resistance test that closely approximates the kinking forces likely to be encountered during use.

(6) Guide tubes must be used when moving the source out of the device.

(7) An exposure head or similar device designed to prevent the source assembly from passing out of the end of the guide tube must be attached to the outermost end of the guide tube during radiographic operations.

(8) The guide tube exposure head connection must be able to withstand the tensile test for control units specified in ANSI N432.

(9) Source changers must provide a system for assuring that the source will not be accidentally withdrawn from the changer when connecting or disconnecting the drive cable to or from a source assembly.

(d) All newly manufactured radiographic exposure devices and associated equipment acquired by licensees after January 10, 1991 must comply with the requirements of this section.

(e) All radiographic exposure devices and associated equipment in use after January 10, 1995 must comply with the requirements of this section.

3. In § 34.21 the existing paragraph is redesignated as paragraph (a) and a new paragraph (b) is added to read as follows:

§ 34.21 Limit on levels of radiation for radiographic exposure devices and storage containers.

* * * * *

(b) Paragraph (a) of this section applies to all equipment manufactured prior to January 10, 1991. After January 10, 1995, radiographic equipment other than storage containers and source changers must meet the requirements of § 34.20, and § 34.21 applies only to storage containers (source changers).

4. A new heading **"Reporting"** is added and a new § 34.30 is added under that heading to read as follows:

Reporting

§ 34.30 Reporting requirements.

(a) In addition to the reporting requirements specified under other sections of this chapter, each licensee shall provide a written report to the U.S. Nuclear Regulatory Commission; Division of Industrial and Medical Nuclear Safety; Medical, Academic and Commercial Use Safety Branch; Washington, DC 20555, with a copy to the Director, Office for Analysis and Evaluation of Operational Data, U.S. Nuclear Regulatory Commission, Washington, DC 20555, within 30 days of the occurrence of any of the following incidents involving radiographic equipment:

(1) Unintentional disconnection of the source assembly from the control cable.

(2) Inability to retract the source assembly to its fully shielded position and secure it in this position.

(3) Failure of any component (critical to safe operation of the device) to properly perform its intended function.

(b) The licensee shall include the following information in each report submitted under paragraph (a) of this section:

(1) A description of the equipment problem.

(2) Cause of each incident, if known.

(3) Manufacturer and model number of equipment involved in the incident.

(4) Place, time and date of the incident.

(5) Actions taken to establish normal operations.

(6) Corrective actions taken or planned to prevent recurrence.

(7) Qualifications of personnel involved in the incident.

(c) Reports of overexposure submitted under 10 CFR 20.405 which involve failure of safety components of radiography equipment must also include the information specified in paragraph (b) of this section.

5. In § 34.33 paragraph (a) is revised to read as follows, and a new paragraph (f) is added to read as follows:

§ 34.33 Personnel monitoring.

(a) The licensee may not permit any individual to act as a radiographer or a radiographer's assistant unless, at all times during radiographic operations, each such individual wears a direct reading pocket dosimeter, an alarm ratemeter, and either a film badge or a thermoluminescent dosimeter (TLD) except that for permanent radiography facilities where other appropriate alarming or warning devices are in routine use, the wearing of an alarming ratemeter is not required. Pocket dosimeters must have a range from zero to at least 200 milliroentgens and must be recharged at the start of each shift. Each film badge and TLD must be assigned to and worn by only one individual.

* * * * *

(f) Each alarm ratemeter must—

(1) Be checked to ensure that the alarm functions properly (sounds) prior to use at the start of each shift;

(2) Be set to give an alarm signal at a preset dose rate of 500 mR/hr.;

(3) Require special means to change the preset alarm function; and

(4) Be calibrated at periods not to exceed one year for correct response to radiation: Acceptable ratemeters must alarm within plus or minus 20 percent of the true radiation dose rate.

6. In Appendix A, Item II.C, "Use of personnel monitoring equipment," is amended to add paragraph 3, as follows:

Appendix A

II * * *

C * * *

3. Alarm ratemeters

* * * * *

Dated at Rockville, MD, this 29th day of December 1989.

For the Nuclear Regulatory Commission.

John C. Hoyle,

Assistant Secretary of the Commission.

Appendix A to This Document—Regulatory Flexibility Analysis for Amendments to 10 CFR Part 34 on Safety Requirements for Industrial Radiographic Equipment

The Nuclear Regulatory Commission is amending its regulations that apply to industrial radiography. These amendments impose additional safety performance standards on radiographic equipment, and radiographers are required to wear alarm ratemeters. In addition, the amendments require reporting of failures of radiography equipment to meet safety performance standards in the field.

Industrial radiography performed in the field has been of concern to the NRC and the Agreement States for over 20 years, in part because of its high incidence of overexposure (4 to 5 times that of other radiation workers), and in part because of the potential for serious consequences to both the public and radiographers due to the high activity of the radioactive sources used in this industry. Among the actions considered by the NRC to help alleviate the situation are:

(a) A training manual for radiography personnel,

(b) Improved training programs for individual radiographers,

(c) Increasing inspection time observing actual radiographic operations,

(d) Providing additional guidance for reporting events as required by 10 CFR, and

(e) Establishment of safety requirements for radiographic equipment.

The amendments in this rulemaking fall within category (e) above. They are designed to reduce the potential for overexposures by the imposition of safety performance standards on radiographic exposure devices and associated equipment and by providing some redundancy in detecting exposed sources by requiring the use of alarming ratemeters.

A total of approximately 1,100 radiography licenses are currently in effect, approximately one-third have been issued by the NRC and the other two-thirds by the Agreement States.

Based upon a recent survey of some 355 NRC radiography licensees and discussions with Agreement State personnel in California, Louisiana, and Texas (which contain most of the non-NRC radiography licensees), the staff has concluded that approximately 90% of all radiography licensees have annual receipts of less than $3.5 million, the criterion for defining "small entities," specified in Section 605(b) of the Regulatory Flexibility Act of 1980.

Most of the radiography licensees are in the business of nondestructive testing in which radiography represents only a part of their total income. A few small firms work only in radiography. In spite of their classification as small entities, the NRC survey cited above indicated that 76% of the licensees had annual receipts of over $500K, and most of the remainder had annual receipts exceeding $250K.

The estimated costs to individual licensees resulting from these amendments consist of an initial cost of $3,636 for the purchase of radiography devices and $1,477 for purchase of alarm ratemeters, plus an annual cost of $1,188 for replacement of devices and alarm dosimeters, annual calibration of alarm dosimeters, annual maintenance costs, and reporting and labelling requirements.

A breakdown in the annual cost per licensee given above is as follows:

Replacement of exposure devices (over and above the present cost)	$404
Replacement of alarm ratemeters	295
Calibration of alarm ratemeters	227
Ratemeter battery replacement	164
Reporting and labelling requirements	98
Total	1188

Although the majority of the licensees fall within the category of "small entities" as defined by the NRC, the Commission believes that the initial and annual costs of the new rulemaking, which are described above, should not have a significant economic impact on most of the licensees because the

costs are small compared to their annual receipts. Further, the Commission has concluded that the benefits that would result to radiographers and to the general public as a result of these amendments outweigh the small cost to the licensees. This final rule does not duplicate or conflict with other Federal rules.

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DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

[Docket No. 90-2]

12 CFR Part 32

National Banks' Lending Limits; Loans to Foreign Governments

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Final rule; request for comments.

SUMMARY: The Office of the Comptroller of the Currency (OCC) has adopted an amendment to its regulation concerning national bank lending limits with respect to the treatment of loans to a foreign government, its agencies, and instrumentalities. The amendment establishes a non-combination rule when the central government or another central facility becomes the obligor for such loans, as a result of debt restructuring. Under the amendment, the loans will continue to be included under the lending limit for the original obligor on each loan and will not be attributed to the named central obligor in the restructuring. The amendment also imposes, in such cases, an overall limitation equal to fifty percent (50 percent) of a bank's unimpaired capital and surplus with respect to all loans, in the aggregate, to the foreign government, its agencies, and instrumentalities, including restructured loans. Although the amendment is effective immediately, the OCC is requesting comment both the possible modification of this amendment and for development of a similar rule in its broader proposed revision of Part 32 published for comment on October 24, 1989.

DATES: The final rule is effective on January 10, 1990. Comments must be received on or before March 12, 1990.

ADDRESS: Comments should be sent to Docket No. 90-2, Communications Division, 5th Floor, Office of the Comptroller of the Currency, 490 L'Enfant Plaza East, SW., Washington, DC 20219. Attention: Lynnette Carter. Comments will be available for inspection and photocopying at the same address.

FOR FURTHER INFORMATION CONTACT: Richard H. Cleva, Senior Attorney, Legal Advisory Services Division, (202) 447-1883; Jose Tuya, Senior Advisor, International Banking and Finance, (202) 447-1700.

SUPPLEMENTARY INFORMATION:

I. Introduction

A. Background

The lending limits for national banks are governed by Revised Statutes 5200, 12 U.S.C. 84. In 1982, Congress amended section 84 to raise the basic limit on a national bank's lending to a single borrower from ten to fifteen percent of the bank's unimpaired capital and unimpaired surplus. *See* Garn-St Germain Depository Institutions Act of 1982, Public Law No. 97-320, Section 401(a), 96 Stat. 1469, 1508 (1982). It also provided express authority for the OCC to issue regulations implementing that statute. Rules concerning the combination of loans to separate borrowers were eliminated from the statute to permit the OCC maximum flexibility in developing regulations on this subject.

The OCC implemented the amended statute with a final rule published on April 12, 1983, 48 FR 15844. The final rule created a new part 32 in title 12 of the Code of Federal Regulations which supplanted and reorganized existing interpretive rulings previously found at 12 CFR part 7. The preamble to the final rule requested additional comments on 12 CFR 32.5 which addresses combining loans to separate borrowers. The OCC published a final rule amending that section on June 14, 1983, 48 FR 27224. Recently, the OCC published a notice of proposed rulemaking proposing a number of clarifying amendments to Part 32. *See* 54 FR 43398 (October 24, 1989) (the "October 24th NPRM"). The relationship between this final rule and the October 24th NPRM is discussed below.

Among the rules governing the combination of loans to separate borrowers currently contained in 12 CFR 32.5 is a rule specifically addressing loans to foreign governments, their agencies, and instrumentalities. *See* 12 CFR 32.5(d). Under this rule, the general rules for combining loans to separate borrowers are not applicable to loans to foreign governments, their agencies and instrumentalities. Instead, such loans are combined with one another only if the borrower fails to meet a two-part test (the "means and purpose test")—namely, (1) that the borrower has revenue of its own sufficient to service its loans, and (2) that the purpose of the loan is consistent with the borrower's own general business. In other words, loans made to a foreign central government, its political subdivisions, its agencies, and its instrumentalities (including government-owned corporations and industries) are not combined for lending limit purposes as long as the means and purpose test is met. Thus, loans to each qualifying public-sector borrower are subject to the separate lending limit for that borrower.

B. Need for Final Rule

The OCC was asked its views on the application of 12 U.S.C. 84 to participation by national banks in the 1989-92 Financing Package for Mexico. The OCC responded in a letter dated October 31, 1989. That letter addressed many of the issues involved in this rulemaking and advised banks of the OCC's views and plan to develop this rule.

The Financing Package included a comprehensive restructuring of much of the existing outstanding external commercial bank debt of the Mexican central government and numerous other Mexican public-sector obligors. Many of these borrowers qualified as separate borrowers under the means and purpose test.

The form of the restructuring, however, was not to restructure the debt of each borrower separately, but to consolidate the debt under one central obligor. Thus, in the Financing Package, existing debt of any or all of the various borrowers could be exchanged for bonds issued by the United Mexican States, the Mexican central government. In cases of the substitution of borrowers (where one borrower substitutes itself for another and the initial borrower is released from its loan obligation to the bank), the OCC's interpretation of 12 U.S.C. 84 generally has been that the loan is considered subject to the lending limit of the substituted borrower and no longer included in the limit of the initial borrower.

Thus, in a restructuring of foreign sovereign debt such as Mexico's, the means and purpose test (which established a separate lending limit for qualifying public-sector borrowers) would interact with the customary borrower-substitution principle with the following result: Loans that were previously outstanding to separate public-sector borrowers that qualified for a separate lending limit under the means and purpose test would be consolidated under the lending limit of the central obligor in the restructuring

(such as the Mexican central government in the Financing Package).

In the context of lending to a foreign government, this leads to unintended consequences. First, the loans now outstanding to the central obligor, if considered obligations to a single borrower for lending limit purposes, might exceed an individual bank's lending limit to the central obligor, even though the funds were not originally advanced for the benefit of, or with an expectation of repayment from, the central obligor. Moreover, the ability of the bank to make new loans to the central obligor would be limited because the other loans were now attributed to the central obligor.

Second, to the extent the original separate public-sector obligors continue to meet the means and purpose test, a bank could lend new money (up to its lending limit) to each former obligor (other than the central obligor) because all the prior debt would have been attributed to the central obligor. These changes in result would occur merely because of the form in which the restructuring took place.

Accordingly, the OCC has decided to exercise the authority granted it under 12 U.S.C. 84(d) and to amend its rules governing loan combination and attribution in order to address these circumstances.

II. Discussion of the Final Rule

A. Provisions of the Final Rule

The OCC has determined that an appropriate response to this situation is to look through the technical consolidation of loans, which occurs in such sovereign debt restructurings, and to continue to treat the loans as loans outstanding to their original obligors for purposes of the lending limit of 12 U.S.C. 84. Thus, the restructured loans will not be combined under the lending limit of the new central obligor. This treatment is warranted because prior to the restructuring the loans were already in existence for the separate public sector borrowers and, at the time the loans were originally made, qualified as loans to separate borrowers under 12 CFR 32.5(d). The loans are being rearranged and placed under the central government or some other single obligor to facilitate external debt management and restructuring.

As a result of this rule, a bank's lending limit position with respect to its foreign government debt will be the same after a restructuring as before. Of course, other parts of a restructuring package or other later events may reduce loans outstanding for the lending limit, as discussed below; but the restructuring/consolidating process in itself will not have a lending limit impact.

This final rule will apply only when there has been a qualifying restructuring of loans and other extensions of credit to a foreign government, its agencies, and instrumentalities (i.e., public-sector obligors). Under this rule, loans that were previously outstanding to separate public-sector obligors that qualified for a separate lending limit under the means and purpose test and that are consolidated under a central obligor (typically the central goverment) in a qualifying restructuring will not be considered as obligations of the central obligor for purposes of the bank's lending limit. Such loans will continue to be included in the lending limit of the original public-sector obligor. However, previous debt of the central obligor, including any other debt which was previously attributed to the central obligor through the means and purpose test, will continue to be subject to the central obligor's lending limit (i.e., the regular 15 percent limit), even if it is included in the restructuring. Only loans originally made to other public-sector borrowers and now aggregated with outstanding loans to the central obligor will be excluded from the central obligor's inidividual limit.

Loans to a foreign government qualify for this non-combination treatment only if the consolidation of loans occurs in a restructuring that the Comptroller has approved for this lending limit treatment. The factors that the Comptroller will use in making this determination include, but are not limited to, the following: (1) Whether the restructuring involves a substantial portion of the total external commercial bank loans outstanding to the foreign government, its agencies, and instrumentalities and a substantial number of the country's external commercial bank creditors; (2) whether the restructuring and consolidation under a central obligor is being done primarily to facilitate external debt management; and (3) whether the restructuring includes features of debt or debt-service reduction. This rule is intended to address restructurings of foreign sovereign debt into which the foreign government is entering to manage its external debt. The OCC will not accord this treatment in other instances, such as loan consolidations stemming from changes in the underlying economic relationships between previously separate borrowers. For example, a merger of two previously separate public-sector borrowers would not qualify.

In addition, the final rule imposes an overall lending limit of fifty percent (50 percent) of a bank's unimpaired capital and surplus for all loans and other extensions of credit to the central government, its agencies, instrumentalities, and other public sector borrowers, including restructed debt, taken in the aggregate. In the October 24th NPRM, the OCC included a proposal for a similar 50 percent overall limit which would apply to loans to foreign governments generally. This final rule make the 50 percent overall limit immediately effective for loans to a foreign government specifically in the context of qualified sovereign debt restructurings.

B. Interaction of Final Rule with Other Lending Limit Rules

Under this final rule, loans previously made to separate public-sector obligors will continue to be attributed to the original obligors even after a qualified restructuring. Taken by itself, the immediate application of this non-combination rule is simply that the original loan amounts are deemed to remain subject to the lending limit of each orginal borrower. The non-combination rule also affects the application of other lending limit rules, when taken in conjunction with other events such as other features in the restructuring. Sometimes the effect of another lending limit rule will influence proportionately the non-combined original loans. At other times, only the central obligor will be affected.

For example, a restructuring may include a partial discharge of the original loans tendered for restructuring. If the discharge meets the requirements of 12 CFR 32.106 for removal as a loan for lending limit purposes, then the amount of loans considered subject to the lending limit for each original obligor would be reduced in the proportion that the debt of that original obligor had in the total amount exchanged in the restructuring.

The following example will illustrate. In a restructuring, a bank tenders loans of the central obligor ("C") of $50 million, loans of another public-sector borrower ("A") of $30 million, and loans of a third public-sector borrower ("B") of $20 million. In exchange, the bank receives debt of the central obligor in the amount of $80 million, and the discharge of $20 million has met the requirements of 12 CFR 32.106. In this case, the $20 million reduction in loans outstanding for lending limit purposes would be spread among the original obligors in the same proportion as the original loans had in the amount

tendered (50 percent for C, 30 percent for A, and 20 percent for B). Thus the amount of loans remaining outstanding for each original obligor is as follows: $40 million for C ($50 million less $10 million, 50 percent of $20 million); $24 million for A ($30 million less $6 million, 30 percent of $20 million); and $16 million for B ($20 million less $4 million, 20 percent of $20 million).

On the other hand, in other cases the effect of another lending limit rule will be only upon the central obligor. For example, if the restructured debt qualifies as an investment security and a bank holds it as such, the corresponding reduction in the amount outstanding for lending limit purposes under 12 CFR 32.111 would reduce the outstandings against only the central obligor's lending limit, because the investment security is an obligation only of that obligor. The non-combined loan amounts of other original borrowers would be unaffected and not reduced.

In the same example as above, the bank determines that the $80 million restructured debt issued by the central obligor qualifies as an investment security under 12 CFR 1.5(b), subject to the aggregate limitation of five percent of the bank's capital and surplus under 12 CFR 1.7(b). The 5 percent limit for this bank equals $20 million. The bank then holds $20 million of the debt as an investment security subject to its investment limit under 12 U.S.C. 24 (Seventh). The corresponding reduction in the amount of loans outstanding subject to the lending limit of 12 U.S.C. 84 applies only to the central obligor (C). Thus, the amount of loans remaining outstanding for each original obligor is as follows: $20 million for C ($40 million less the $20 million now subject to the investment security limit); $24 million for A; and $16 million for B.

Subsequent events may also interact with the non-combination rule. For example, as the restructured central debt is repaid or sold, the amount outstanding for lending limit purposes will, of course, be reduced. This reduction generally would be spread among the original obligors in the same proportion as the original loans tendered in the restructuring. However, in some cases other factors, such as prior investment security treatment or the presence of other debt which had been purchased in the secondary market, would affect the manner in which the amount outstanding for lending limit purposes is reduced for the various obligors.

III. Relation of Final Rule to October 24th NPRM

In its October 24th NPRM, the OCC has proposed removing the means and purpose test for loans to foreign governments, their agencies and instrumentalities, and replacing it with a test based on a distinction between governmental and commercial functions. Briefly, the OCC proposed to make loans to a foreign government and any of its agencies and instrumentalities that are primarily engaged in governmental functions subject to a 15 percent limit. Loans to agencies and instrumentalities engaged primarily in commercial activities would be subject to a 15 percent limit for any one obligor and a 35 percent overall limit for all such loans and obligors in the aggregate.

This final rule relates to the current means and purpose test and is not connected to the proposed governmental or commercial function test described in the October 24th NPRM. This final rule is effective immediately and becomes part of the OCC's current lending limit regulation. However, the OCC also intends, subject to comment received, to include a similar rule of not combining loans in a qualifying restructuring in any revision or replacement of the means and purpose test which results from the October 24th NPRM.

IV. Request for Comments

Comments are invited on all aspects of this final rule with respect to its current application under the means and purpose test. Comment is specifically requested on the following matters: (1) Ways to simplify administration of the non-combination rule, particularly as that rule interacts with other lending limit rules; (2) Other approaches to dealing with sovereign debt restructurings under the lending limit; and (3) Whether the 50 percent aggregate limit should include, or otherwise take account of, credit exposure to a foreign country which is not a "loan" under 12 U.S.C. 84 (such as deposits or investment securities).

OCC also invites comments on the inclusion of similar provisions (a rule of non-combination of loans in sovereign debt restructurings) under the proposed governmental or commercial function test in the October 24th NPRM. The comment period for the October 24 NPRM, with respect to this issue and the governmental or commercial function test generally, is hereby extended to coincide with the comment period for this rule.

V. Special Studies

A. Reasons for Adoption without Prior Notice and Comment and for Immediate Effective Date

For the reasons discussed above, the OCC believes that implementation of this rule should not be delayed. Accordingly, the OCC finds that application of the notice and comment procedure of 5 U.S.C. 553 to this action would be contrary to the public interest and that good cause exists for making this action effective immediately. An immediate effective date is necessary to give national banks clear information on which to evaluate participation in the 1989–92 Financing Package for Mexico. Moreover, the banks immediately affected were given notice of the OCC's views and this rulemaking in the OCC's letter dated October 31, 1989, concerning the Financing Package. Nevertheless, the OCC believes that comment may be beneficial and could result in a better regulation. Therefore, the OCC requests post-promulgation comment on the rule and possible alternatives.

B. Regulatory Flexibility Act Analysis

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Comptroller of the Currency certifies that this regulation will not have a significant economic impact on a substantial number of small banks. The regulation will merely allow banks to continue to treat restructured loans in the same manner for lending limit purposes as before the restructuring.

C. Executive Order 12291

The OCC has determined that this rule is not a "major rule" within the meaning of Executive Order 12291. Consequently, a Regulatory Impact Analysis will not be required on the grounds that this regulation (1) would not have an annual effect on the economy of $100 million or more, (2) would not result in a major increase in the cost of bank operations or government supervision, and (3) would not have a significant adverse effect on competition, employment, investment, productivity, innovation, or competition with foreign-based entities.

List of Subjects in 12 CFR Part 32

National banks, Banking, Lending limits.

Authority and Issuance

For the reasons set forth in the preamble, part 32 of chapter I of title 12 of the Code of Federal Regulations is amended as follows:

PART 32—LENDING LIMITS

1. The authority citation for part 32 continues to read as follows:

Authority: 12 U.S.C. 84 and 12 U.S.C. 93a.

2. In § 32.5, paragraph (d)(1) is amended by adding "*Means and Purpose Test.*" as a heading after "(1)" and before "Notwithstanding".

3. In § 32.5, paragraph (d)(2) is amended by adding "*Documentation.*" as a heading after "(2)" and before "In order to show".

4. In § 32.5, a new paragraph (d)(3) is added to read as follows:

§ 32.5 Combining loans to separate borrowers.

* * * * *

(d) * * *

(3) *Restructured loans*—(i) *Non-combination rule.* Notwithstanding paragraphs (a), (b), and (c) of this section, when previously outstanding loans and other extensions of credit to a foreign government, its agencies, and instrumentalities (i.e., public-sector obligors) that qualified for a separate lending limit under paragraph (d)(1) of this section are consolidated under a central obligor in a qualifying restructuring, such loans will not be combined and attributed to the central obligor, notwithstanding any substitution in named obligors, solely because of the restructuring. Such loans (other than loans originally attributed to the central obligor in their own right) will not be considered obligations of the central obligor and will continue to be attributed to the original public-sector obligor for purposes of the lending limit.

(ii) *Qualifying restructuring.* Loans and other extensions of credit to a foreign government, its agencies, and instrumentalities will qualify for the non-combination process under paragraph (d)(3)(i) of this section only if they are restructured in a sovereign debt restructuring approved by the Comptroller, upon request by a bank, for application of the non-combination rule. The factors which the Comptroller will use in making this determination include, but are not limited to, the following: (A) Whether the restructuring involves a substantial portion of the total commercial bank loans outstanding to the foreign government, its agencies, and instrumentalities; (B) Whether the restructuring involves a substantial number of the foreign country's external commercial bank creditors; (C) Whether the restructuring and consolidation under a central obligor is being done primarily to facilitate external debt management; and (D) Whether the restructuring includes features of debt or debt-service reduction.

(iii) *50 percent aggregate limit.* With respect to any case in which the non-combination process under paragraph (d)(3)(i) of this section applies, a national bank's loans and other extensions of credit to a foreign government, its agencies, instrumentalities, and all other public-sector borrowers (including restructured debt) shall not exceed, in the aggregate, fifty percent (50 percent of the bank's unimpaired capital and surplus.

Dated: January 5, 1990.

Robert L. Clarke,

Comptroller of the Currency.

[FR Doc. 90-574 Filed 1-9-90; 8:45 am]

BILLING CODE 4810-33-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 89-NM-207-AD; Amdt. 39-6467]

Airworthiness Directives; Boeing of Canada, Ltd., de Havilland Division, Model DHC-8 (Pre-Modification No. 8/1098), Equipped with Main Gear Uplock Actuator Part Numbers 10800 -103, -105, -107, -109, and -111

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain de Havilland Model DHC-8 series airplanes, which requires inspection of the main landing gear (MLG) uplock actuator to assess the position of the sensor bracket, and reworking or replacement of parts, if necessary. This amendment is prompted by reports that trapping of the MLG uplock actuator target lever can occur under adverse tolerance conditions, combined with a failed target lever return spring. This condition, if not corrected, could result in failure of the MLG to extend for landing.

EFFECTIVE DATE: February 12, 1990.

ADDRESSES: The applicable service information may be obtained from Boeing of Canada, Ltd., de Havilland Division, Garrett 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 the FAA, New England Region, New York Aircraft Certification Office, 181 South Franklin Avenue, Room 202, Valley Stream, New York.

FOR FURTHER INFORMATION CONTACT: Mr. C. Kallis, New York Aircraft Certification Office, ANE-173; telephone (516) 791-6427. Mailing address: FAA, New England Region, 181 South Franklin Avenue, Room 202, Valley Stream, New York 11581.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive, applicable to certain de Havilland Model DHC-8 series airplanes, which requires inspection of the main landing gear (MLG) uplock actuator to assess the position of the sensor bracket, and reworking or replacement of parts, if necessary, was published in the Federal Register on October 20, 1989 (54 FR 43080).

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 59 airplanes of U.S. registry will be affected by this AD, that it will take approximately 2.5 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 $5,900.

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 Administration amends 14 CFR 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 Model DHC–8 series airplanes, serial numbers 3 through 144 inclusive; certificated in any category; equipped with main landing gear uplock actuator, Part Numbers 10800–103, –105, –107, –109, –111; and which do not have Modification 8/1098 incorporated. Compliance is required as indicated, unless previously accomplished.

To prevent failure of the main landing gear (MLG) to extend, accomplish the following:

A. Within 50 hours time-in-service after the effective date of this AD, inspect the MLG uplock installation in accordance with the compliance section de Havilland Service Bulletin No. 8–32–79, Revision, A, dated February 3, 1989. If the sensor bracket is under flush, and there are no spacers fitted, prior to further flight, rework the actuator in accordance with the service bulletin.

B. Whenever the proximity sensor and/or the proximity sensor mounting bracket on an uplock actuator has been reset or replaced, prior to further flight, perform the inspection and any necessary repair as required by paragraph A., above.

C. Within one year after the effective date of this AD, rework and reidentify all uplock actuators in accordance with DOWTY Alert Service Bulletin (part of de Havilland Service Bulletin No. 8–32–79) paragraph 2.E., "Rework" instructions. After rework is accomplished, the inspections required in paragraphs A. and B., above, may be terminated.

D. An alternative means of compliance or adjustment of the compliance time, which provides an acceptable level of saftey, 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.

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

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Boeing of Canada, Ltd., de Havilland Division, Garrett 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 the FAA, New England Region, New York Aircraft Certification Office, 181 South Franklin Avenue, Room 202, Valley Stream, New York.

This amendment becomes effective February 12, 1990.

Issued in Seattle, Washington, on December 28, 1989.

Steven B. Wallace,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90–599 Filed 1–9–90; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 89–ASW–13; Amdt. 39–6464]

Airworthiness Directives; California Department of Forestry Model UH–1F et al.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action publishes in the **Federal Register** and makes effective as to all persons an amendment adopting a new airworthiness directive (AD), which was previously made effective as to all known U.S. owners and operators of certain Model UH–1A, UH–1B, UH–1E, UH–1F, UH–1L, and TH–1L type helicopters by individual letters. The AD requires inspections of the transmission spiral bevel gear for evidence of gear tooth failure and replacement, as necessary. The AD is needed to prevent failure of the transmission spiral bevel gear which could result in loss of control of the helicopter.

DATES: *Effective:* February 7, 1990, as to all persons except those persons to whom it was made immediately effective by Priority Letter AD 89–08–06, issued April 12, 1989, which contained this amendment.

Compliance: Compliance required as indicated, unless already accomplished.

ADDRESS: The applicable AD-related material may be examined at the Regional Rules Docket, Office of the Assistant Chief Counsel, FAA, 4400 Blue Mound Road, Room 158, Bldg. 3B, Fort Worth, Texas.

FOR FURTHER INFORMATION CONTACT: Mr. Tyrone D. Millard, Rotorcraft Directorate, Rotorcraft Certification Office, ASW–170, FAA, Southwest Region, Fort Worth, Texas 76193–0170, telephone (817) 624–5177.

SUPPLEMENTARY INFORMATION: On April 12, 1989, Priority Letter AD 89–08–06 was issued and made effective immediately as to all known U.S. owners and operators of certain Model UH–1A, UH–1B, UH–1E, UH–1F, UH–1L, and TH–1L type helicopters. The AD requires inspections of the transmission spiral bevel gear for evidence of gear tooth failure and replacement of any unserviceable main transmission spiral bevel gear with a serviceable part. The AD was prompted by a report in which a pilot of a Bell Model 212 helicopter heard an occasional and unusual noise coming from the transmission area during flight. Upon returning to base, an inspection of the helicopter revealed two large pieces of gear tooth materials fractured from the main transmission spiral bevel gear, part number (P/N) 204–040–701–103. A metallurgical examination of the failed gear teeth attributes this failure to the presence of a low alloy metallic inclusion which occurred during processing of the gear material. This condition may result in early failure (prior to 250 hours' time in service) of some of these gears. AD action was and is necessary to prevent failure of the transmission spiral bevel gear which can result in loss of control of the helicopter. The AD, as published, includes a new paragraph (e) to provide for ferry flights in accordance with FAR §§ 21.197 and 21.199 and adds the serial numbers (S/N) that were listed in Appendix I of Priority Letter AD 89–08–06, and adds one other S/N that was not included in the priority letter. Since it was found that immediate corrective action was required, notice and public procedure thereon were impracticable and contrary to public interest, and good cause existed to make the AD effective immediately by individual letters issued April 12, 1989, to all known U.S. owners and operators of certain Model UH–1A, UH–1B, UH–1E, UH–1F, UH–1L, and TH–1L helicopters. These conditions still exist, and the AD is hereby published in the **Federal Register** as an amendment to § 39.13 of part 39 of the Federal Aviation Regulations to make it effective as to all persons.

The regulations adopted herein will not have substantial direct effects on the states, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance

with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a 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 Regional Rules Docket (otherwise, an evaluation is not required). A copy of it, if filed, may be obtained from the Regional 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 14 CFR part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

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

California Department of Forestry; Garlick Helicopters; Hawkins and Powers Aviation Inc.; Hercules; International Helicopters, Inc.; Oregon Helicopters; Pilot Personnel International, Inc.; Smith Helicopters; Sountern Aero Corporation; and West Coast Fabrications (these helicopters were manufactured by Bell Helicopter Textron, Inc., under military contract): Applies to Model UH-1A, UH-1B, UH-1E, UH-1F, UH-1L, and TH-1L helicopters, certificated in any category, with main transmission spiral bevel gear, P/N 204-040-701-103 installed, having less than 250 hours' time in service after the effective date of this AD and delivered as spares or in a new transmission between January 1, 1988, and April 4, 1989.

The spare (uninstalled) spiral bevel gears, P/N 204-040-701-103, affected serial numbers are as follows:

A-3819 A-3821 A-3825 A-3826 A-3829 A-3833 A-3834 A-3836 A-3838 A-3840 A-3845 A-3847 A-3848 A-3850 A-3855 A-3856 A-3857 A-3858 A-3861 A-3878 A-3880 A-3885 A-3886 A-3889 A-3891 A-3892 A-3893 A-3895 A-3896 A-3897 A-3899 A-3901 A-3911 A-3915 A-3916 A-3919 A-3920 A-4008 A-4014 A-4017 A-4019 A-4020 A-4021 A-4027 A-4029 A-4068 A-4069 A-4071 A-4075 A-4077 A-4078 A-4079 A-4080 A-4081 A-4083 A-4084 A-4085 A-4087 A-4089 A-4090 A-4091 A-4092 A-4093 A-4094 A-4095 A-4096 A-4097 A-4098 A-4107 A-4108 A-4109 A-4147 A-4184 A-4186 A-4187 A-4188 A-4191 A-4192 A-4193 A-4213 A-4229 A-4233 A-4235 A-4236 A-4241 A-4243 A-4244 A-4245 A-4254 A-4266 A-4267 A-4274 A-4275 A-4280 A-4282 A-4288 A-4289 A-4290 A-4303 A-4319 A-4320 A-4325 A-4327 A-4328 A-4329 A-4332 A-4333 A-4334 A-4335 A-4336 A-4337 A-4358 A-4366 A-4368 A-4369 A-4370 A-4371 A-4372 A-4374 A-4376 A-4377 A-4378 A-4379 A-4380 A-4383 A-4385 A-4386 A-4387 A-4394 A-4395 A-4397 A-4400 A-4401 A-4403 A-4411 A-4417 A-4418 A-4428

(Docket No. 89-ASW-13)

Compliance is required as indicated, unless already accomplished.

To prevent failure of the main transmission spiral bevel gear which could result in possible loss of the helicopter, accomplish the following:

(a) Within the next 10 hours' time in service after the effective date of this AD and, thereafter, before the first flight of each day, accomplish the following:

(1) Remove and inspect the transmission internal sump oil filter for evidence of metal contamination (e.g., steel particles in splinter, granular, or flake form).

(2) If metal contamination is evident, disassemble the main transmission to determine the extent of damage and replace any unserviceable parts with serviceable parts before further flight.

(b) Within the net 10 hours' time in service after the effective date of this AD and, thereafter, at intervals not to exceed 50 hours' time in service from the last inspection, accomplish the following:

(1) Remove a quill pad cover, P/N 204-040-174-001, or rotor brake quill from the transmission main ring gear case to gain access to the main transmission spiral bevel gear.

(2) Utilizing a bright light and a dental mirror, inspect all teeth in the spiral bevel gear, P/N 204-040-701-103, for evidence of cracks, chipping, and metal deformation. If cracks, chipping, or metal deformation is evident, the part must be removed from service and replaced with a serviceable part before further flight.

(3) Reinstall pad cover, P/N 204-040-174-001, or rotor brake quill whichever is applicable.

(c) The provisions of this AD do not apply when the time in service of the spiral bevel gear, P/N 204-040-701-103, reaches or exceeds 250 hours' time in service.

Note: Spiral bevel gear, P/N 204-040-701-103, affected by this AD may be returned to Bell Helicopter Textron, Inc., Attn: CPR Monitor, 3000 South Norwood & Trinity Boulevard, Hurst, Texas 76053, for inspection and reidentification. After reidentification, the provisions of this AD no longer apply.

(d) An alternate method of compliance or adjustement of the compliance time, which provides an equivalent level of safety, may be used when approved by the Manager, Rotorcraft Certification Office, Rotorcraft Directorate, Aircraft Certification Service, FAA, Southwest Region, Fort Worth, Texas.

(e) In accordance with FAR §§ 21.197 and 21.199, flight is permitted to a base where the inspection requirements of this AD may be accomplished.

This amendment becomes effective February 7, 1990 as to all persons except those persons to whom it was made immediately effective by Priority Letter AD 89-08-06, issued April 12, 1989, which contained this amendment.

Issued in Fort Worth, Texas, on December 27, 1989.

John J. Shapley,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 90-598 Filed 1-9-90; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 89-CE-36-AD; Amdt. 39-6453]

Airworthiness Directives; Piper Models PA-25, PA-25-235, and PA-25-260 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to certain Piper Models PA-25, PA-25-235, and PA-25-260 airplanes modified with metal wing skin by Hutcherson Air Service STC SA501SW. This AD requires dye penetrant and visual inspections for cracks in the wing front spar lower caps, and replacement of the wing front spars if found cracked. Fatigue cracks in the wing front spar lower caps have occurred. The actions of this AD will detect and repair these cracks to preclude catastrophic wing failure.

DATES: *Effective:* February 8, 1990.

Compliance: As prescribed in the body of the AD.

ADDRESSES: Information applicable to this AD may be examined at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Richard A. Monschke, Aerospace Engineer, Special Programs office Federal Aviation Administration, Fort Worth, Texas 76193–0192; Telephone (817) 624–5131.

SUPPLEMENTARY INFORMATION: A Piper Model PA–25–235 airplane was modified by STC SA501SW which installed Hutcherson Air Service special wing ribs and metal wing skin conversion. That airplane crashed as a result of the left wing separating from the airplane.

Subsequent investigation and laboratory evaluation indicates that a fatigue crack initiated in the lower front spar cap at a hole common to the bulbed spar flange and the wing rib approximately 20.5 inches outboard of the wing to fuselage attach lug. Such a crack, if left undetected, on similarly modified airplanes, could also result in wing failure.

Since the FAA has determined that the unsafe condition described herein is likely to exist or develop in other airplanes of the same type design, an AD is being issued requiring dye penetrant and visual inspections for cracks in the wing front spar lower caps and replacement of the wing front spars if necessary on Piper Models PA–25, PA–25–235, and PA–25–260 airplanes which have incorporated Hutcherson Air Service STC SA501SW. This is an interim action and further rulemaking may be required based upon the results of the required inspections.

Because an emergency condition exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical and contrary to the public interest, 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 State, onthe 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 major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If 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 by contacting the Rules Docket under the caption **ADDRESSES** at the location identified.

Lists of Subjects 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 14 CFR 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.

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

Piper: Applies to Models PA–25, PA–25–235, and PA–25–260 (all Serial Numbers) airplanes certificated in any category which have incorporated the metal wing skin modification by Supplemental Type Certificate (STC) SA501SW. Compliance: Required upon the accumulation of 500 hours time-in-service since incorporation of STC SA501SW, or within the next 25 hours time-in-service after the effective date of this AD, whichever is later, unless previously accomplished.

To detect cracks or other damage in the forward wing spar cap(s), accomplish the following:

(a) Remove the wing walk lower rear and lower front (leading edge) skin panels from each wing.

(b) Detach the leading edge and lower wing skin panels of each wing sufficiently to allow inspection of the left and right spar lower cap from the wing-fuselage attach lug to the wing-compression strut attachment.

(c) Visually inspect the uncovered lower front spar caps for cracks using a 10-power (10X) glass, and also with standard dye or fluorescent penetrant inspection procedures. Place special attention to the holes common to the bulbed spar flange with the wing ribs and the wing attach angles.

(d) If no cracks are found, reinstall the lower wing skin and leading edge panels in accordance with STC SA501SW.

(e) If cracks are found in the wing front spar cap(s), prior to further flight remove and replace the spar(s) with serviceable part(s) of the same part number and reinstall the wing skins and panels in accordance with STC SA501SW.

(f) Within seven days after the completion of the inspections required above, submit a report of results of all inspections, positive or negative, to the Manager, Special Programs Office, FAA, Forth Worth, Texas 76193–0190. Reports must include the airplane serial number, aircraft total time, time since SA501SW was installed, and time since compliance with AD 80–21–08.

If cracks are found, reports must also include crack location and total crack length to the nearest tenth of an inch. (Reporting approved by the Office of Management and Budget under OMB Control No. 2120–0056.)

(g) An alternate method of compliance or adjustment of the compliance time which provides an equivalent level of safety may be approved by the Manager, Special Programs Office, FAA, Forth Worth, Texas 76193–0190.

Note: The request should be forwarded through an FAA Maintenance Inspector, who may add comments and then send it to the Manager, Special Programs Office.

All persons affected by this directive may obtain copies of the document referred to herein upon request to Hutcherson Air Service, P.O. Box 940, Plainview, Texas 79072, or may examine this document at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on December 21, 1989.

J. Robert Ball,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90–597 Filed 1–9–90; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 89–CE–38–AD; Amdt. 39–6455]

Airworthiness Directives; Piper Models PA–42, PA–42–720, and PA–42–720R Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to Piper Models PA–42, PA–42–720, and PA–42–720R airplanes. It corrects an error in the Limitations Section of the Pilot's Operating Handbook (POH) and FAA Approved Airplane Flight Manual (AFM) by limiting the use of aviation gasoline in turbine engines as an emergency fuel. This action will preclude premature engine failure and possible resultant loss of the airplane.

DATES: *Effective* February 8, 1990.

Compliance: As prescribed in the body of the AD.

ADDRESSES: Pilot's Operating Handbook and FAA Approved Airplane Flight Manual Report Nos. LK–1213 Rev. 8 (for Model PA–42 airplanes), LK–1394 Rev. 7 (for Model PA–42–720 airplanes), VB–1314 Rev. 7 (for Model PA–42–720 airplanes) and LK–1485 Rev. 6 (for Model PA–42–720R airplanes) applicable to this AD may be obtained from the Piper Aircraft Corporation, 2926 Piper Drive, Vero Beach, Florida 32960; Telephone (407) 567–4366. This information may also be examined at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. Will H. Trammell, Aerospace Engineer, Propulsion Branch, Atlanta Aircraft Certification Office, FAA, 1669 Phoenix Parkway, Suite 210C, Atlanta, Georgia 30349; Telephone (404) 991–3810.

SUPPLEMENTARY INFORMATION: This amendment mandates correction of the Limitations Section of the Pilot's Operating Handbook (POH) and FAA Approved Airplane Flight Manual (AFM) on Piper Models PA–42, PA–42–720, PA–42–720R airplanes. More specifically, the correction is required in the paragraph entitled "Fuel Specification" in Piper Reports LK–1213 (PA–42), LK–1394 (PA–42–720), VB–1314 (PA–42–720), and entitled "Fuel" in Piper Report LK–1485 (PA–42–720R). These paragraphs erroneously permit the use of aviation gasoline as an emergency fuel for a total time not to exceed 150 hours between turbine hot section inspections.

This limitation is not consistent with the engine manufacturer's data or the engine type certificate data sheet and if followed, may lead to premature engine failure. Consequently, Piper has revised these POHs and FAA approved AFMs to restrict the use of aviation gasoline for a total time not to exceed 150 hours between turbine engine overhaul periods which will bring these documents into agreement with the industry standard for limiting the use of aviation gasoline in turbine engines.

Although current approved revisions to the POH and FAA Approved AFM are required by FAR 91.31 to be incorporated by the owners/operators of the aircraft, the only way to ensure incorporation of this safer and more restrictive limitation is to mandate it by AD action. If this limitaion is not corrected, the erroneous instructions could result in premature deterioration of the turbine engine.

Since the FAA has determined that the condition described herein exists in all airplanes of this type design, an AD is being issued requiring these corrections to be made to the Limitations Section of the affected POHs and FAA Approved AFMs on Piper Models PA–42, PA–42–720, and PA–42–720R airplanes.

Because a safety of flight condition exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical and contrary to the public interest, 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 major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in the operation of the affected airplane engines. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If 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 by contacting the Rules Docket under the caption **"ADDRESSES"** at the location identified.

List of Subjects in 14 CFR 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 14 CFR 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 AD:

Piper: Applies to Models PA–42, PA–42–720, and PA–42–720R (all serial numbers) airplanes certificated in any category.

Compliance: Required within the next 25 hours time-in-service after the effective date of this AD, unless already accomplished. To preclude premature deterioration of the engine which could result in possible engine failure, accomplish the following:

(a) Insert a copy of this AD in the Pilots Operating Handbook and FAA Approved Airplane Flight Manual (POH/AFM) for the applicable airplane and operate in accordance with the revised limitation:

(1) For the Model PA–42 POH/AFM, revise the POH/AFM as follows: Insert Revision 8 of LK 1213 into the POH/AFM.

(2) For the Models PA–42–720 and PA–42–720R, revise the POH/AFM as follows:

(i) For the Model PA–42–720, insert Revision 7 of LK 1394 or VB 1314 into the POH/AFM.

(ii) For the Model PA–42–720R, insert Revision 6 of LK 1485 into the POH/AFM.

(b) The following annotation of the applicable pages of the POH/AFM may be accomplished in lieu of complying with paragraph (a). Locate the paragraph entitled "Fuel Specifications" or "Fuel" in the Limitations section of the POH/AFM. In the first sentence of this paragraph, block out with permanent black ink the words "hot section inspections." Place ⅛" wide white self-adhesive correction tape over these blocked out words and type the following words "engine overhaul periods" on the correction tape.

(c) The requirements of this AD may be accomplished by the holder of a pilot certificate issued under part 61 of the Federal Aviation Regulations on any airplane owned or operated by this person. The person accomplishing these actions must make the appropriate airplane maintenance record entry as prescribed by FAR 43.9 and FAR 91.173.

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

(e) An alternate method of compliance or adjustment of the compliance time which provides an equivalent level of safety may be approved by the Manager, Atlanta Aircraft Certification Office, Federal Aviation Administration, 1669 Phoenix Parkway, Suite 210C, Atlanta, Georgia 30349.

Note: The request should be forwarded through an FAA Maintenance Inspector who may add comments and send it to the Manager, Atlanta Aircraft Certification Office.

All persons affected by this directive may obtain copies of the documents

referred to herein upon request to the Piper Aircraft Corporation, 2926 Piper Drive, Vero Beach, Florida 32960, or may examine these documents at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on December 21, 1989.

J. Robert Ball,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90-600 Filed 1-9-90; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF JUSTICE

Parole Commission

28 CFR Part 2

Paroling, Recommitting and Supervising Federal Prisoners; Drug Testing of Federal Parolees

AGENCY: United States Parole Commission, Justice.

ACTION: Final rule.

SUMMARY: The Parole Commission is adopting a proposed amendment to the standard conditions of parole at 28 CFR 2.40, to provide that all parolees and releasees shall be subject to drug testing whenever ordered by their U.S. Probation Officer. Currently, persons on parole supervision are subject to drug testing if the Commission has imposed a special drug aftercare condition, or if the probation officer suspects drug use, or there is an established pattern of random testing in the parolees or releasees district of supervision. The Commission believes that drug abuse is so pervasive that all released prisoners under supervision should be subject to an immediate drug test whenever ordered by their U.S. Probation Officer.

EFFECTIVE DATE: February 9, 1990.

FOR FURTHER INFORMATION CONTACT: Richard K. Preston, Attorney, Office of General Counsel, U.S. Parole Commission, Telephone: (301) 492-5959.

SUPPLEMENTARY INFORMATION: Drug abuse among released criminal offenders is not limited to those with prior drug histories whose need for drug treatment and testing is clear. The Commission believes that a parolee who is subject to being tested for illicit drug use will more likely be deterred from illicit drug use than would be the case if he were not so subject. The potential for being drug tested will have a positive effect on the parolee's readjustment to the community, as well as diminishing the demand for illicit drugs. Intervention for sanction and treatment purposes is more possible if the probation officer has the authority to order an immediate drug test and the parolees and releasees will modify their behavior once on notice that they may be tested.

The Commission published a proposed rule at 54 FR 27844 (June 30, 1989). The Commission received public comment from two Federal inmates, the Chief U.S. Probation Officer for the Central District of California, and one public interest law foundation. The three comments can be summarized as follows: First, comments from the Washington Legal Foundation, a non-profit public interest law and policy center, strongly supported the proposed regulation and, in fact, would like the Commission to expand it to include random alcohol testing. Second, Chief U.S. Probation Officer for the Central District of California, Robert Latta, stated that his staff is "very much in favor of the proposed rule." Third, comments from one inmate opposed the condition generally on grounds that there are inadequate resources (administrative time and prison space) to handle the implementation of the new condition. The comment also noted that there were insufficient guidelines on how to protect parolees from possible abuse by probation officers. Finally, another inmate criticized the proposed rule on the grounds that he had never engaged in or had any history of drug involvement and believed that drug testing for individuals such as himself would be inappropriate and contrary to the intent of Congress. Additionally, this inmate believed that those released on mandatory release cannot have special drug aftercare conditions because the government had no choice in releasing them. After considering the comments, the Commission decided to let the proposed rule be published without change.

List of Subjects in 28 CFR Part 2

Administrative practice and procedure, Prisoners, Probation and parole.

The Amendment

Accordingly, the Parole Commission proposes to amend part 2 of CFR as follows:

PART 28—[AMENDED]

1. The authority citation for 28 CFR part 2 continues to read:

Authority: 18 U.S.C. 4203(a)(1) and 4204(a)(6).

2. Section 2.40 is amended to add a new paragraph (a)(14) to read as follows:

§ 2.40 Conditions of release.

(a) * * *

(14) The parolee shall submit to a drug test whenever ordered by his Probation Officer.

* * * * *

Dated: December 14, 1989.

Benjamin F. Baer,

Chairman, U.S. Parole Commission.

[FR Doc. 90-557- Filed 1-9-90; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6761

[CO-930-00-4214-10, C-34653]

Withdrawal of Public Lands for Windy Gap Archaeological Site, CO

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order withdraws 397.8 acres of public lands from surface entry and mining for a period of 20 years for the Bureau of Land Management to protect the Windy Gap Archaeological Site. The lands have been and remain open to mineral leasing.

EFFECTIVE DATE: January 10, 1990.

FOR FURTHER INFORMATION CONTACT: Doris Chelius, BLM Colorado State Office, 2850 Youngfield Street, Lakewood, Colorado 80215-7076, 303-236-1752.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Subject to valid existing rights, the following described public lands are hereby withdrawn from settlement, sale, location, or entry under the general land laws, including the United States mining laws (30 U.S.C. Ch. 2), but not from leasing under the mineral leasing laws, to protect a Bureau of Land Management Archaeological site:

Sixth Principal Meridian

T. 2 N., R. 76 W.,
Sec. 17, S½SE¼,
Sec. 20, N½NE¼, SW¼NE¼.
T. 2 N., R. 77 W.,
Sec. 23, Lot 8;
Sec. 24, Lot 4;
Sec. 25, Lots 1 and 2;
Sec. 26, Lot 1.

The areas described aggregate approximately 397.8 acres of public land.

2. The withdrawal made by this order

does not alter the applicability of those public land laws governing the use of the lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

3. This withdrawal will expire 20 years from the effective date of this order unless, as a result of a review conducted before the expiration date pursuant to section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f), the Secretary determines that the withdrawal shall be extended.

Dated: December 27, 1989.

David C. O'Neal,

Assistant Secretary of the Interior.

[FR Doc. 90-565 Filed 1-9-90; 8:45 am]

BILLING CODE 4310-JB-M

43 CFR Public Land Order 6762

[NV-930-00-4214-10; N-47122]

Withdrawal of Public Lands for Stewart Valley Paleontological Site, NV

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order withdraws 1,420 acres of public lands from surface entry and mining for a period of 20 years for the Bureau of Land Management to protect the Stewart Valley Paleontological Site. The lands have been and remain open to mineral leasing.

EFFECTIVE DATE: January 10, 1990.

FOR FURTHER INFORMATION CONTACT: Vienna Wolder, BLM, Nevada State Office, P.O. Box 12000, Reno, Nevada 89520, 702-328-6326.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Subject to valid existing rights, the following described public lands are hereby withdrawn from settlement, sale, location, or entry under the general land laws, including the United States mining laws (30 U.S.C. Ch. 2), but not from leasing under the mineral leasing laws, to protect the Bureau of Land Management's Stewart Valley Paleontological Site:

Mount Diablo Meridian

T. 8 N., R. 36 E.,
Sec. 1, NW¼NW¼;
Sec. 2, W½, W½E½, and NE¼NE¼.
T. 9 N., R. 36 E.,
Sec. 15, E½SE¼, E½W½SE¼, and S½SE¼NE¼;
Sec. 26, SE¼NW¼, SW¼NE¼, E½SW¼, and W½SE¼;
Sec. 35, W½, NW¼NE¼, and S½SE¼;
Sec. 36, SW¼SW¼.

The areas described aggregate 1,420 acres in Mineral County.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

3. This withdrawal will expire 20 years from the effective date of this order unless, as a result of a review conducted before the expiration date pursuant to section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f), the Secretary determines that the withdrawal shall be extended.

Dated: December 27, 1989.

David C. O'Neal,

Assistant Secretary of the Interior.

[FR Doc. 90-564 Filed 1-9-90; 8:45 am]

BILLING CODE 4310-HC-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Federal Insurance Administration

44 CFR Part 67

Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

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

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

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

ADDRESSES: See table below.

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

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

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

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

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

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

1. The authority citation for part 67 continues to read as follows:

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

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

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

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
ALABAMA	
Greene County (Unincorporated Areas) (FEMA Docket No. 6960)	
Tombigbee River:	
At confluence of Black Warrior River	*95
About 14.9 miles upstream of Gainesville Dam	*131
Maps available for inspection at the County Courthouse, Eutaw, Alabama.	
ALASKA	
Aniak (City), Bethel Borough (FEMA Docket No. 6960)	
Kuskokwim River:	
Just south of the runway at the middle of the road running parallel to the landing strip	*87
At the intersection of Boundary Avenue and Fourth Street	*89
At the west end of the existing levee	*90
Aniak Slough: Outside and south of the levee	*90
Maps are available for review at The Department Public Works, Maintenance Office, Boundary Avenue, Aniak, Alaska.	
ARKANSAS	
Baxter County, Unincorporated Areas (FEMA Docket No. 6960)	
White River:	
Approximately 2,587 feet downstream of confluence of Jenkins Creek	*443
Downstream face of Bull Shoals Dam	*493
North Fork River:	
At confluence with White River	*397
At the downstream face of Norfork Dam	*398
Tributary No. 1:	
At confluence with Tributary No. 2	*612
Approximately 127 feet upstream of County Route 984	*742
Tributary No. 2:	
Approximately 280 feet downstream of County Route 989	*582
Approximately 100 feet upstream of County Route 988	*724
Walker Creek:	
Approximately 1,267 feet downstream of County Route 27	*741
Aproximately 2,265 upstream of confluence of Walker Tributary	*868
Walker Tributary:	
At confluence with Walker Creek	*830
Approximately 770 feet upstream of Spring Lake Avenue	*850
Hicks Creek:	
Approximately 1.16 miles downstream of County Route 55	*561
At the City of Mountain Home corporate limits	*688
Hicks Creek Tributary:	
At confluence with Hicks Creek	*643
Approximately 970 upstream of County Route 54	*749
Dodd Creek:	
At confluence with Hicks Creek	*664
Approximately 1,750 feet downstream of Wade Avenue	*719
Approximately 900 feet downstream of Bucher Drive	*770
Upstream of State Route 178	*801
Dodd Creek Tributary:	
At the confluence with Dodd Creek	*692
Approximately 260 feet upstream of Pine Tree Lane	*790
Indian Creek:	
At confluence with Hicks Creek	*752
At downstream side of Bradley	*820
Maps available for inspection at the Mountain Home City Hall, Mountain Home, Arkansas.	
Cotter (City), Baxter County (FEMA Docket No. 6960)	
White River:	
Approximately 2.3 miles downstream of U.S. Route 62	*449
Approximately 2.0 miles upsteam of U.S. Route 62	*458
Maps available for inspection at the City Hall, Cotter, Arkansas.	
Norfork (City), Baxter County (FEMA Docket No. 6960)	
North Fork River:	
At confluence with White River	*397
Approximately 1.3. miles upstream of State Route 5	*397
Maps available for inspection at the City Hall, Norfork, Arkansas.	
Salesville (City), Baxter County (FEMA Docket No. 6960)	
North Fork River: Its entire length within the community	*397
Maps available for inspection at the City Hall, Salesville, Texas.	
GEORGIA	
Thomas County (Unincorporated Areas) (FEMA Docket No. 6960)	
Oquina Creek:	
At mouth	*169
Just downstream of North Pine Tree Boulevard	*186
Good Water Creek:	
At mouth	*177
Just downstream of Georgia-Florida Parkway	*186
Just upsteam of Georgia-Florida Parkway	*192
About 1.0 mile upstream of Georgia-Florida Parkway	*201
Gatling Branch:	
About 600 feet upstream of mouth	*134
About 3.2 miles upstream of mouth	*172
Gatling Branch Tributary:	
At mouth	*151
Just downstream of Summer Hill Road	*202
Olive Creek:	
About 550 feet downstream of Cone Road	*148
Just downsteam of South Pine Tree Boulevard	*197
Olive Creek Tributary:	
At mouth	*188
About 400 feet downstream of Mill Pond Road	*202
Wards Creek:	
Just upstream of CSX railroad	*176
About 1600 feet upstream of Habersham Road	*247
Maps available for inspection at the Building Inspection Department, 201 Broad Street, Thomasville, Georgia.	
ILLINOIS	
Fairbury (City), Livingston County (FEMA Docket No. 6966)	
Indian Creek:	
About 2900 feet downstream of Locust Street	*666
About 2100 feet upstream of Seventh Street	*674
Maps available for inspection at the City Hall, 101 East Locust Street, Fairbury, Illinois.	
Herrin (City), Williamson County (FEMA Docket No. 6960)	
Norge Ditch:	
About 1400 feet downstream of 8th Street	*405
About 1350 feet upstream of Clark Trail	*444
Hurrican Creek Tributary:	
About 1350 feet downstream of Railroad Avenue	*422
About 0.8 mile upstream of Railroad Avenue	*465
17th Street Ditch:	
About 1600 feet upstream of Union Pacific Railroad	*394
Just downstream of Herrin Avenue	*396
Just upstream of Herrin Avenue	*401
About 1350 feet upstream of Clark Trail	*468
Maps available for inspection at the Clerk's Desk, City Hall, 300 North Park Avenue, Herrin, Illinois.	
Mound City (City), Pulaski County (FEMA Docket No. 6960)	
Ohio River: Within corporate limits	*331
Maps available for inspection at the City Utilities Office, 314 Main Street, Mound City, Illinois.	
KANSAS	
Caldwell (City), Sumner County (FEMA Docket No. 6927)	
Fall Creek:	
About 0.7 mile downstream of U.S. Highway 81	*1106
Just downstream of county road (about 0.9 mile upstream of U.S. Highway 81)	*1115
Maps available for inspection at the City Hall, 14 West Central, Caldwell, Kansas.	
Oxford (City), Sumner County (FEMA Docket No. 6927)	
Arkansas River:	
About 1600 feet downstream of Atchison, Topeka, and Santa Fe Railway	*1145
Just downstream of Atchison, Topeka, and Santa Fe Railway	*1146
Just upstream of Atchison, Topeka, and Santa Fe Railway	*1151
About 3600 feet upstream of U.S. Highway 160	*1156
Maps available for inspection at the City Hall, 121 South Sumner, Oxford, Kansas.	
Sumner County (Unincorporated Areas) (FEMA Docket No. 6927)	
Arkansas River:	
About 500 feet downstream of county boundary	*1138
Just downstream of Atchison, Topeka, and Santa Fe Railway	*1146
Just upstream of Atchinson, Topeka, and Santa Fe Railway	*1151
About 1.7 miles upstream of U.S. Highway 160	*1157
Just upstream of State Highway 55	*1187
About 2.2 miles downstream of confluence of Cowskin Creek Cutoff	*1207
Bluff Creek:	
Just upstream of county road (downstream of Oklahoma, Kansas, and Texas Railroad)	*1102
Just downstream of county road (about 3.8 miles upstream of U.S. Highway 81)	*1120
Cowskin Creek:	
About 2600 feet upstream of Hillside Road	*1227
About 400 feet upstream of county boundary	*1233
Fall Creek:	
Just upstream of county road (downstream of Oklahoma, Kansas, and Texas Railroad)	*1104
About 2.1 miles upstream of U.S. Highway 81	*1120
Euphrates Creek:	
Just upstream of county road (about 1.3 miles downstream of Line Street)	*1195
Just downstream of Atchinson, Topeka, and Santa Fe Railway	*1204
Ninnescah River:	
Just upstream of Atchison, Topeka, and Santa Fe Railway	*1200
About 1500 feet upstream of county boundary	*1257
Slate Creek:	
At confluence of Spring Creek	*1211
Just downstream of county road (upstream of confluence of Spring Creek)	*1218
Left Overbank No. 1:	
At confluence with Ninnescah River	*1211
At divergence with Ninnescah River	*1214
Left Overbank No. 2:	
At confluence with Ninnescah River	*1219
At divergence with Ninnescah River	*1222
Right Overbank:	
At confluence with Ninnescah River	*1212
At divergence with Ninnescah River	*1215
Maps available for inspection at the County Engineer's Office, County Courthouse, Wellington, Kansas.	

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
MICHIGAN	
Bridgeton (Township), Newaygo County (FEMA Docket No. 6951)	
Muskegon River:	
At Maple Island Road	*609
About 1.8 miles upstream of Warner Avenue	*622
Maps available for inspection at the Township Supervisor's Home, 9348 104th, Holton, Michigan.	
MINNESOTA	
Blue Earth County (Unincorporated Areas) (FEMA Docket No. 6960)	
Blue Earth River:	
About 1100 feet downstream of U.S. Highway 169	*782
About 1.0 mile upstream of County Highway 33	*792
Le Sueur River:	
At mouth	*788
Just downstream of County Highway 41	*915
Cobb River:	
At mouth	*826
Just downstream of County Highway 16	*882
Watonwan River:	
About 1.4 miles above mouth	*888
Just downstream of Chicago and North Western	*916
Minnesota River:	
At downstream county boundary	*770
At upstream county boundary	*804
Maps available for inspection at the Zoning Administrator's Office, Planning and Zoning Office, 202 East Jackson, Mankato, Minnesota.	
MISSISSIPPI	
Forrest County (Unincorporated Areas) (FEMA Docket No. 6960)	
Leaf River:	
Just upstream of Sims Road	*131
About 9.6 miles upstream of U.S. Highway 11	*168
Bowie River:	
At mouth	*148
About 4.5 miles upstream of Illinois Central Railroad	*185
Greens Creek:	
About 1000 feet downstream of U.S. Highway 11	*150
About 700 feet upstream of Norfolk Southern Railway	*156
Maps available for inspection at the Board of Supervisor's Office, County Courthouse, 629 Main Street, Hattiesburg, Mississippi.	
Hattiesburg (City), Forrest and Lamar Counties (FEMA Docket No. 6960)	
Bowie River:	
At mouth	*148
About 2.0 miles upstream of Interstate 59	*170
Leaf River:	
About 3.2 miles downstream of South Main Street	*139
About 2500 feet upstream of U.S. Highway 11	*150
Gordons Creek:	
At mouth	*147
Just downstream of Walnut Street	*150
Maps available for inspection at the Building Inspection Department, City Hall, 200 Forrest Street, Hattiesburg, Mississippi.	
Lamar County (Unincorporated Areas) (FEMA Docket No. 6960)	
Perkins Creek:	
Just upstream of Oak Grove Road	*280
Just downstream of U.S. Highway 98	*297
Just upstream of dam	*319
Just downstream of Ralph Rals Road	*331
Mixons Creek:	
Just upstream of Interstate 59	*175
Just downstream of Gravel Pit Road	*253
Mixons Creek Tributary:	
At mouth	*175
Just downstream of Illinois Central Railroad	*181
Just upstream of West Fourth Street	*187
About 1600 feet upstream of Westover Drive	*195
Black Creek:	
About 1700 feet downstream of Interstate 59	*209
About 3500 feet upstream of U.S. Highway 98	*290
Little Black Creek:	
About 2.1 miles downstream of Interstate 59	*210
About 4100 feet upstream of U.S. Highway 11	*247
Maps available for inspection at the County Administrator's Office, Purvis, Mississippi.	
Lee County (Unincorporated Areas) (FEMA Docket No. 6960)	
Coonewah Creek:	
At mouth	*229
About 2000 feet upstream of Brewer Road	*234
Little Coonewah Creek:	
About 2300 feet downstream of State Highway 6	*296
About 500 feet upstream of State Highway 6	*301
Tributary to Coonewah Creek:	
About 0.5 mile above mouth	*275
About 0.5 mile upstream of Green Tee Road	*301
Kings Creek:	
At mouth	*262
About 0.6 mile upstream of Natchez Trace Parkway	*285
Mud Creek:	
About 1.6 miles above mouth	*266
Just downstream of Barnes Road	*276
Russell Creek:	
About 0.5 mile above mouth	*309
Just upstream of Butler Drive	*339
Sand Creek:	
Just upstream of Lake Lamar Bruce Road	*307
About 0.4 mile upstream of Pea Ridge Road	*318
Town Creek:	
At confluence of Coonewah Creek	*229
About 2150 feet upstream of U.S. Highway 78	*273
Town Creek Tributary No. 1:	
At mouth	*267
About 325 feet upstream of U.S. Highway 78	*273
Town Creek Tributary No. 2:	
At mouth	*238
Just downstream of Brewer Road	*256
Tulip Creek:	
Just upstream of Burlington Northern railroad	*258
Just downstream of U.S. Highway 78	*292
Maps available for inspection at the Board of Supervisors' Office, The Chancery Clerk Building, Tupelo, Mississippi.	
Petal (City), Forrest County (FEMA Docket No. 6960)	
Greens Creek:	
At mouth	*150
Just downstream of North Main Street	*160
Leaf River:	
About 2.2 miles downstream of South Main Street	*140
About 1.5 miles upstream of U.S. Highway 11	*152
Unnamed Tributary:	*
At mouth	*146
Just downstream of South Main Street	*149
Maps available for inspection at the City Hall, 107 West 8th Avenue, Petal, Mississippi.	
NEBRASKA	
Schuyler (City), Colfax County (FEMA Docket No. 6960)	
Shell Creek:	
About 1.4 miles downstream of U.S. Highway 30	*1345
About 2900 feet upstream of U.S. Highway 30	*1355
Shell Creek Right Overbank:	
At mouth	*1346
About 1.3 miles upstream of U.S. Highway 30	*1354
Platte River:	
About 1.8 miles downstream of State Highway 15	*1343
About 0.9 mile upstream of State Highway 15	*1357
Lost Creek:	
About 2.1 miles downstream of State Highway 15	*1343
About 2.1 miles upstream of State Highway 15	*1357
Maps available for inspection at the City Hall, 1020 A Street, Schuyler, Nebraska.	
NEW JERSEY	
Lafayette (Township), Sussex County (FEMA Docket No. 6956)	
Paulins Kill:	
Approximately 5,750 feet downstream of old railroad grade	*503
Approximately 3,980 feet upstream of old railroad grade	*562
Sparta Junction Tributary:	
At confluence with Paulins Kill	*560
Approximately 2,600 feet upstream of old railroad grade	*568
Lafayette Township Tributary:	
At confluence with Paulins Kill	*511
Approximately 860 feet upstream of Little Road	*535
Maps available for inspection at the Lafayette Municipal Building, Route 15, Lafayette, New Jersey.	
Stillwater (Township), Sussex County (FEMA Docket No. 6956)	
Paulins Kill/Paulins Kill Lake:	
At West End Drive	*451
At upstream corporate limits	*459
Maps available for inseption at the Stillwater Municipal Town Hall, Stillwater Road, Stillwater, New Jersey.	
NORTH CAROLINA	
Dunn (City), Harnett County (FEMA Docket No. 6960)	
Black River:	
Just downstream of SR 1718	*168
About 500 feet upstream of U.S. Route 421	*172
Stony Run:	
About 1000 feet upstream of Interstate 95	*176
About 0.3 mile upstream of U.S. Route 301	*201
Maps available for inspection at the City Hall, Dunn, North Carolina.	
Erwin (Town), Harnett County (FEMA Docket No. 6960)	
Black River:	
About 0.5 mile downstream of SR 1735	*163
Just downstream of SR 1725	*174
Juniper Creek:	
At mouth	*108
About 0.7 mile upstream of U.S. Route 421	*145
Stewarts Creek:	
At mouth	*124
About 0.4 mile downstream of SR 1725	*155
Cape Fear River:	
About 0.7 mile below State Road 217	*107
At confluence of Upper Little River	*110
Maps available for inspection at the Town Manager's Office, Municipal Building, Erwin, North Carolina.	
Harnett County (Unincorporated Areas (FEMA Docket No. 6960)	
Black River:	
About 1.5 miles downstream of Long Branch Road	*152
Just downstream of SR 1725	*174
Buies Creek:	
At mouth	*118
Just downstream of SR 1519	*125
Just upstream of SR 1519	*130
Just downstream of U.S. Route 421	*142
Just upstream of State Road 27	*149
Just downstream of SR 1516	*178
West Buies Creek:	
At mouth	*122
Just downstream of Golf Road	*128
Just upstream of Golf Road	*134

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
About 850 feet upstream of U.S. Route 421	*156
East Buies Creek:	
At mouth	*124
Just upstream of SR 1516	*197
Juniper Creek:	
At mouth	*109
Just downstream of SR 2009	*185
South Prong Anderson Creek:	
About 0.3 mile downstream of SR 1120	*171
About 1.0 mile upstream of SR 1120	*187
Stewarts Creek:	
At mouth	*124
Just upstream of SR 1725	*164
Stony Run:	
At mouth	*161
Just downstream of Interstate 95	*169
Just upstream of Interstate 95	*174
Just downstream of dam	*184
Just upstream of dam	*191
Just upstream of SR 1712	*219
Tributary No. 1:	
About 900 feet above mouth	*133
Just downstream of SR 1124	*158
Just upstream of SR 1124	*164
About 575 feet upstream of SR 1124	*164
Tributary No. 2:	
At mouth	*150
About 1580 feet upstream of Appaloosa Road	*175
Cape Fear River:	
At Southern County Boundary	*103
At Northern County Boundary	*153
Maps available for inspection at the Planning Office, County Courthouse, Lillington, North Carolina.	
Lillington (Town), Harnett County (FEMA Docket No. 6960)	
Cape Fear River:	
About 1.2 miles downstream of U.S. Route 421	*125
About 1.0 mile upstream of Norfolk Southern Railway	*131
Maps available for inspection at the City Manager's Office, Town Hall, Lillington, North Carolina.	
OHIO	
Columbiana County (Unincorporated Areas) (FEMA Docket No. 6960)	
Longs Run:	
About 2450 feet downstream of East Liverpool	*920
Just downstream of Yeager Drive	*999
North Fork Yellow Creek:	
About 0.8 mile downstream of Haiti Road	*849
About 600 feet upstream of Haiti Road	*866
Middle Fork Little Beaver Creek:	
About 2400 feet downstream of State Route 7	*815
Just downstream of State Route 45	*1015
Ohio River:	
About 2.3 miles downstream of Newell Bridge	*685
About 3.0 miles upstream of U.S. Route 30	*691
Maps available for inspection at the County Courthouse, Lisbon, Ohio.	
Garrettsville (Village), Portage County (FEMA Docket No. 6960)	
Eagle Creek:	
Just upstream of Brosius Road	*948
Just downstream of drop structure	*967
Just upstream of drop structure	*985
About 0.7 mile upstream of South Street	*986
Camp Creek:	
At mouth	*949
Just downstream of drop structure	*953
Just upstream of drop structure	*970
About 1.0 mile upstream of Center Street	*980
Maps available for inspection at the Village Hall, 8213 High Street, Garrettsville, Ohio.	
Jeffersonville (Village), Fayette County (FEMA Docket No. 6960)	
Sugar Creek:	
About 1050 feet downstream of Campground Road	*1037
About 600 feet upstream of Grand Trunk Western Railroad	*1048
Maps available for inspection at the Village Hall, 4 North Main Street, Jeffersonville, Ohio	
OKLAHOMA	
Edmond (City), Oklahoma County (FEMA Docket No. 6960)	
Spring Creek Tributary 1:	
Approximately 125' upstream of Coltrane Road	*1,070
Approximately 200' upstream of Coltrane Road	*1,070
Chisholm Creek:	
At Coffee Creek Road	*1,035
At upstream corporate limits	*1,054
Winding Creek:	
Downstream corporate limit	*1,091
Approximately 0.77 mile upstream of confluence with Santa Fe Creek	*1,126
Covell Creek (formerly Chisholm Creek Tributary 2):	
Confluence with Chisholm Creek	*1,043
Approximately 0.65 mile upstream of Covell Road	*1,113
Trail Creek:	
Confluence with Santa Fe Creek	*1,074
Upstream side of Santa Fe Avenue	*1,119
Santa Fe Creek (formerly Chisholm Creek Tributary 4):	
Approximately 0.26 mile downstream of confluence with Trail Creek	*1,071
Approximately 100' upstream of Kelly Avenue	*1,151
Mander Creek:	
Confluence with Santa Fe Creek	*1,094
Upstream side of Kelly Avenue	*1,151
Hunters Creek (formerly Chisholm Creek Tributary 1):	
Corporate limits	*1,033
Approximately 3,485' upstream of confluence with Hunters Creek Tributary	*1,120
Oak Creek:	
Corporate limits	*1,042
At Kelly Avenue	*1,084
Hunters Creek Tributary:	
Confluence with Hunters Creek	*1,104
Approximately 2,160' upstream of Coffee Creek Road	*1,124
Mill Creek:	
Corporate limits	*1,031
Approximately 70' upstream of Santa Fe Avenue	*1,075
Pond Creek (formerly Chisholm Creek Tributary 3):	
Confluence with Chisholm Creek	*1,049
3,280' upstream of confluence with Chisholm Creek	*1,051
Willow Creek:	
Confluence with Santa Fe Creek	*1,103
5,060' upstream of confluence with Santa Fe Creek	*1,137
Maps available for inspection at the City Hall, 100 East First, Edmond, Oklahoma.	
Kay County (Unincorporated Areas) (FEMA Docket No. 6960)	
Arkansas River:	
Approximately 2.0 miles downstream of U.S. Route 60	*922
At Kaw Dam (upstream limit of detailed study)	*951
Tributary W:	
At confluence with Arkansas River	*932
At upstream corporate limits	*939
Salt Fork Arkansas River:	
At downstream side of U.S. Route 77	*959
Approximately 0.74 mile upstream of U.S. Route 77	*960
Chikaskia River:	
Approximately 1.15 miles downstream of the City of Blackwell corporate limits	*1,001
Approximately 0.6 miles upstream of State Route 11	*1,009
Maps available for inspection at the Kay County Courthouse, Newkirk, Oklahoma.	
PENNSYLVANIA	
Armstrong (Township), Indiana County (FEMA Docket No. 6960)	
Crooked Creek:	
At corporate limits	*989
At CSX Transportation	*1,006
Maps available for inspection in care of Mr. Donald Harris, Jr., Township Secretary, Shelocta Road, Shelocta, Pennsylvania.	
Cassandra (Borough), Cambria County (FEMA Docket No. 6960)	
Little Conemaugh River:	
Approximately 250 feet downstream of downstream corporate limits	*1,761
At upstream corporate limits	*1,790
Maps available for inspection at the Borough Building, Portage, Pennsylvania.	
Clearfield (Township), Cambria County (FEMA Docket No. 6960)	
Chest Creek:	
Approximately 5,450 feet downstream of corporate limits	*1,734
Approximately 4,500 feet upstream of corporate limits	*1,742
Clearfield Creek:	
Approximately 300 feet downstream of T-521	*1,504
Approximately 1,000 feet upstream of T-521	*1,507
Approximately .5 mile downstream of State Route 36	*1,614
State Route 36	*1,622
Maps available for inspection at the home of Evelyn Preloh, Township Secretary, R.D. #1, Box 265, Patton, Pennsylvania.	
Coaldale (Borough), Bedford County (FEMA Docket No. 6960)	
Six Mile Run:	
Approximately 410 feet downstream of downstream corporate limits	*1,090
At upstream corporate limits	*1,139
Maps available for inspection at the Six Mile Run Community Center (off Fulton Street), Six Mile Run, Pennsylvania 16679.	
East Carroll (Township), Cambria County (FEMA Docket No. 6960)	
Little Chest Creek:	
At downstream corporate limits	*1,766
Approximately 25 feet upstream of the confluence of Unnamed Tributary to Little Chest Creek	*1,795
Unnamed Tributary to Little Chest Creek:	
At confluence with Little Chest Creek	*1,795
Approximately 750 feet upstream of T-527	*1,846
Maps available for inspection at the Township Building, R.D. 1, Carrolltown, Pennsylvania.	
East Taylor (Township), Cambria County (FEMA Docket No. 6960)	
Little Conemaugh River:	
Downstream corporate limits (extended)	*1,239
Approximately 3,640 feet upstream of L.R. 11106	*1,387
Maps available for inspection at the Township Building, 1552 William Penn Avenue, Conemaugh, Pennsylvania.	
Ehrenfeld (Borough), Cambria County (FEMA Docket No. 6960)	
Little Conemaugh River:	
At downstream corporate limits	*1,491
At upstream corporate limits	*1,518
Maps available for inspection at the Borough Building, Ehrenfeld, Pennsylvania.	

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Franklin (Borough), Cambria County (FEMA Docket No. 6960)	
Little Conemaugh River:	
Approximately 1,230 feet downstream of State Route 271 (River Avenue)	*1,202
Approximately 3,610 feet upstream of confluence of Clapboard Run	*1,248
Clapboard Run:	
At confluence with Little Conemaugh River	*1,230
At upstream corporate limits	*1,275
Maps available for inspection at the Borough Building, 125 Main Street, Conemaugh, Pennsylvania.	
Geistown (Borough), Cambria County (FEMA Docket No. 6960)	
Sams Run:	
Approximately 155 feet downstream of State Route 756 (Belmont Street)	*1,799
At upstream corporate limits	*1,995
Maps available for inspection at the Geistown Borough Building, 721 East Oakmont Boulevard, Johnstown, Pennsylvania.	
Pine Grove (Township), Schuylkill County (FEMA Docket No. 6960)	
Lower Little Swatara Creek:	
At confluence with Swatara Creek	*506
At upstream corporate limits	*535
Swatara Creek:	
At Interstate Route 81 (southbound)	*488
At upstream corporate limits	*613
Maps available for inspection at the Township Building, Long Stretch Road, Pine Grove, Pennsylvania.	
Portage (Borough), Cambria County (FEMA Docket No. 6960)	
Little Conemaugh River:	
Approximately 50 feet downstream of downstream corporate limits	*1,594
At State Route 53	*1,602
Trout Run:	
At downstream corporate limits	*1,630
Approximately 40 feet upstream of upstream corporate limits	*1,716
Spring Run:	
Approximately 960 feet downstream of Lee Street	*1,601
Approximately 190 feet upstream of CONRAIL	*1,627
Maps available for inspection at the Borough Building, 721 Main Street, Portage, Pennsylvania.	
Portage (Township), Cambria County (FEMA Docket No. 6960)	
Little Conemaugh River:	
Approximately 1,800 feet downstream of State Route 53	*1,595
Approximately 1,150 feet upstream of State Route 164	*1,614
Trout Run:	
At downstream corporate limits (At Borough of Portage)	*1,715
Approximately 0.92 mile upstream of Abandoned Railroad	*1,856
Spring Run:	
At downstream corporate limits (at Borough of Portage)	*1,627
Approximately 0.58 mile upstream of L.R. 11071 (Washington Avenue)	*1,677
Maps available for inspection at the Township Building, Portage, Pennsylvania.	
Reade (Township), Cambria County (FEMA Docket No. 6960)	
Clearfield Creek:	
Approximately 1,000 feet downstream of T-406	*1,412
Approximately 0.5 mile upstream of confluence of Powell Run	*1,433
Powell Run:	
At confluence with Clearfield Creek	*1,426
Approximately 820 feet upstream of State Route 53	*1,438
Approximately 100 feet downstream of T-562	*2,010
Approximately 500 feet upstream of T-564	*2,089
Maps available for inspection at the Township Building, Route 685, Glasgow, Pennsylvania.	
Shamokin (Township), Northumberland County (FEMA Docket No. 6960)	
Shamokin Creek:	
Approximately 340 feet downstream of T-766	*530
At upstream corporate limits	*617
Maps available for inspection at the Shamokin Township Building, Township Road #485, Village of Stonington, Pennsylvania.	
Send comments to The Honorable Robert Ammerman, Chairman of the Township of Shamokin Board of Supervisors, Northumberland County, R.R. 1, Box 379, Paxinos, Pennsylvania 17860.	
South Fork (Borough), Cambria County (FEMA Docket No. 6960)	
Little Conemaugh River:	
At downstream corporate limits	*1,470
At upstream corporate limits	*1,491
South Fork Little Conemaugh River:	
At confluence with Little Conemaugh River	*1,478
At upstream corporate limits	*1,500
Maps available for inspection at the Borough Building, Grant Street, South Fork, Pennsylvania.	
Southmont (Borough), Cambria County (FEMA Docket No. 6960)	
Cheney Run:	
Upstream side of Langhorne Avenue	*1,333
Downstream side of Olive Street	*1,505
Summerhill (Borough), Cambria County (FEMA Docket No. 6960)	
Little Conemaugh River:	
Approximately 0.6 mile downstream of downstream corporate limits	*1,522
At upstream corporate limits	*1,537
Laurel Run:	
At confluence with Little Conemaugh River	*1,534
At upstream corporate limits	*1,609
Maps available for inspection at the Borough Building, Summerhill, Pennsylvania.	
Upper Yoder (Township), Cambria County (FEMA Docket No. 6960)	
Stonycreek River:	
At downstream corporate limits	*1,204
Approximately 0.53 mile upstream of Boone Street	*1,213
Mill Creek:	
Approximately 25 feet downstream of corporate limits	*1,234
Approximately 1.04 mile upstream of corporate limits	*1,326
Maps available for inspection at the Township Building, 302 Elm Street, Johnstown, Pennsylvania.	
Vintondale (Borough), Cambria County (FEMA Docket No. 6960)	
South Branch Blacklick Creek:	
Approximately 100 feet downstream of the downstream corporate limits	*1,390
Approximately 150 feet upstream of confluence with Bracken Run	*1,421
Shuman Run:	
At confluence with South Branch Blacklick Creek	*1,412
Approximately 990 feet above confluence with South Branch Blacklick Creek	*1,465
Bracken Run:	
At confluence with South Branch Blacklick Creek	*1,420
At upstream corporate limits	*1,475
Maps available for inspection at the residence of Mr. Don Kerkes, Secretary/Treasurer of the Borough of Vintondale, Vintondale, Pennsylvania.	
Washington (Township), Indiana County (FEMA Docket No. 6960)	
Crooked Creek:	
Approximately 1.0 mile downstream of CSX Transportation	*1,025
Approximately 900 feet upstream of Blue Spruce Road	*1,054
McKee Run:	
At corporate limits of Borough of Creekside	*1,039
Approximately 1,420 feet upstream of corporate limits of Borough of Creekside	*1,040
Sugarcamp Run:	
Approximately 925 feet downstream of State Route 205	*1,059
Approximately 1.22 miles upstream of State Route 954	*1,152
Maps available for inspection at the residence of Connie L. Johnston, Township Secretary, Johnston Road, Creekside, Pennsylvania.	
West Taylor (Township), Cambria County (FEMA Docket No. 6960)	
Conemaugh River:	
Approximately 500 feet downstream of confluence of Laurel Run	*1,154
At upstream corporate limits	*1,163
Laurel Run:	
At confluence with Conemaugh River	*1,155
Approximately 880 feet upstream of confluence of Red Run	*1,390
Maps available for inspection at the Township Building, West Taylor, Pennsylvania.	
West Wheatfield (Township), Indiana County (FEMA Docket No. 6960)	
Conemaugh River:	
At downstream corporate limits	*997
At upstream corporate limits	*1,084
Maps available for inspection at the residence of Jean Yarnal, Township Secretary, U.S. Route 22 (west of intersection 22 and 259), New Florence, Pennsylvania.	
White (Township), Cambria County (FEMA Docket No. 6960)	
Clearfield Creek:	
Approximately 1,000 feet downstream of T-406	*1,412
Approximately 2,900 feet upstream of T-561 (Foster Road)	*1,433
Beaverdam Run:	
At confluence with Clearfield Creek	*1,385
Approximately 500 feet upstream of confluence of Strayer Run	*1,385
Strayer Run:	
At confluence with Beaverdam Run	*1,385
Approximately 850 feet upstream of L.R. 11063	*1,406
Dutch Run:	
Approximately 500 feet downstream of L.R. 11052	*1,388
Approximately 0.78 mile upstream of L.R. 11052	*1,401
Maps available for inspection at the residence of Mr. John Gates, R.D. 1, Flinton, Pennsylvania	
SOUTH DAKOTA	
Deadwood (City), Lawrence County (FEMA Docket No. 6960)	
White Wood Creek:	
Approximately 818 feet upstream of Charles Street	*4,609
At U.S. Highway 85	*4,624
Approximately 343 feet upstream of U.S. Highway 85 which is located approximately 500 feet downstream of the corporate limits	*4,727
Maps are available for review at the City of Deadwood, City Planner, 3 Siever Street, Deadwood, South Dakota.	

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Pennington County (Unincorporated Areas) (FEMA Docket No. 6960)	
Box Elder Creek North Tributary:	
Approximately 1,600 feet downstream of Old U.S. Highways 14 and 16	*2997
Just upstream of U.S. Highways 14 and 16	*3004
Approximately 75 feet upstream of Interstate Highway 90 overpass	*3029
Approximately 500 feet upstream of Dam No. 2	*3046
Approximately 3,975 feet upstream of Dam No. 2	*3070
Box Elder Creek Northwest Tributary:	
At confluence with Box Elder Creek North Tributary	*3045
Approximately 1,600 feet above confluence with Box Elder Creek North Tributary	*3055
Approximately 2,950 feet above confluence with Box Elder Creek North Tributary	*3069
Maps are available for inspection at the City/School Administration Building, 300 Sixth Street, Rapid City, South Dakota.	
TEXAS	
Argyle (City), Denton County (FEMA Docket No. 6960)	
Graveyard Branch:	
Approximately 700 feet downstream of corporate limits	*623
Approximately 1,300 feet upstream of Old Justin Road	*664
Fincher Branch:	
At Hickory Hills Road	*612
Approximately 800 feet upstream of confluence with Stream FB-1	*630
Stream FB-1:	
Confluence with Fincher Branch	*628
Approximately 70 feet upstream of Harpole Road	*639
Maps available for inspection at the City Hall/Police Station, Highway 377, Argyle, Texas.	
Booker (City), Lipscomb and Ochiltree Counties (FEMA Docket No. 6960)	
North Fork Kiowa Creek Tributary:	
At North County Road	*2,823
Approximately .5 mile upstream of State Route 15	*2,829
Maps available for inspection at the City Hall, South Main, Booker, Texas.	
Madisonville (City), Madison County (FEMA Docket No. 6960)	
Town Branch:	
Approximately 676 feet downstream of downstream corporate limits	*232
Upstream corporate limits	*266
Town Branch Tributary 1:	
At confluence with Town Branch	*252
Approximately 470 feet upstream of Minden Street	*268
Maps available for inspection at the City Hall, 203 Cottonwood, Madisonville, Texas.	
Wise County (Unincorporated Areas) (FEMA Docket No. 6956)	
Moss Branch:	
At downstream County boundary	*746
Approximately 850 feet upstream of a private drive	*873
Derrett Creek:	
At confluence with Eagle Mountain Lake (at downstream County boundary)	*657
Approximately 3.3 miles upstream of Seven Hill Road	*814
Walnut Creek:	
Approximately 875 feet downstream of State Route 730	*709
Approximately 1.9 miles downstream of U.S. Routes 81 and 287	*857
Eagle Mountain Lake: Entire shoreline within community	*657
Maps available for inspection at the County Courthouse, Decatur, Texas.	
WISCONSIN	
Bell Center (Village), Crawford County (FEMA Docket No. 6960)	
Kickapoo River:	
About 1.2 miles downstream of Town Road	*695
About 1.6 miles upstream of Town Road	*700
Maps available for inspection at Route 2, Gays Mills, Wisconsin.	
Elmwood (Village), Pierce County (FEMA Docket No. 6960)	
Eau Galle River:	
About 4100 feet downstream of Public Avenue	*828
About 4800 feet upstream of State Highway 72	*847
Maps available for inspection at the Village Hall, 323 West Winter Avenue, Elmwood, Wisconsin.	
Gays Mills (Village), Crawford County (FEMA Docket No. 6960)	
Kickapoo River:	
About 1500 feet downstream of confluence of Hall Branch	*699
About 0.85 mile upstream of confluence with Dellamater Hollow Tributary	*706
Maps available for inspection at the Community Building, Gays Mills, Wisconsin.	
Soldiers Grove (Village) Crawford County (FEMA Docket No. 6960)	
Kickapoo River:	
About 1800 feet downstream of confluence of Johnson Valley Creek	*723
About 0.5 mile upstream of A Street	*734
Johnson Valley Creek:	
At mouth	*724
About 1.0 mile upstream of mouth	*757
Baker Creek:	
At mouth	*729
Just downstream of Pine Street (near corporate limits)	*780
Maps available for inspection at the Community Building, Soldiers Grove, Wisconsin.	

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

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD) **Mean lower low water (MLLW)
ALASKA	
Ketchikan (City), Ketchikan Gateway Borough (FEMA Docket No. 6960)	
Ketchikan Creek:	
Approximately 300 feet downstream of Lower Park Avenue	**22
Just upstream of Lower Park Avenue bridge	**46
Approximately 45 feet downstream of Upper Park Avenue bridge	**60
Just upstream of Fair Street bridge	**72
Approximately 300 feet upstream of Fair Street	**79
Schoenbar Creek:	
Sheetflow flooding at the intersection of Schoenbar Road and Park Lane	**1
Just upstream of the road to Schoenbar Junior High School	**66
At an unnamed road which intersects Schoenbar Road to the east of Valley Park Elementary School	**72
Approximately 900 feet northwest of the intersection of Fairy Chasm Road and Schoenbar Road	**116
Hoadley Creek:	
Just downstream of Tongass Avenue bridge	**22
Just upstream of Baranof Avenue	**132
Approximately 530 feet north of the intersection of Thatcher Way and Baranof Avenue	**172
Carlanna Creek:	
Approximately 230 feet upstream of Tongass Avenue	**22
At the upstream corporate limits	**44
**Elevation in feet referenced to Mean Lower Low Water Datum (MLLW).	
Maps are available for review at the Department of Public Works, 334 Front Street, Ketchikan, Alaska.	

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

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
KANSAS	
Wellington (City), Sumner County (FEMA Docket No. 6927)	
Slate Creek:	
Just upstream of county road (upstream of confluence of Beaver Creek)	*1175
About 1.0 mile upstream of confluence of Spring Creek	*1216
Hargis Creek:	
At Botkin Street	*1182
Just downstream of Hargis Creek Dam	*1206
Hargis Creek Lake: Within community	1237
Rock Island Slough:	
At mouth	*1189
Just downstream of Atchison, Topeka, and Santa Fe Railway	*1189
Just upstream of Atchison, Topeka, and Santa Fe Railway	*1195
Just downstream of Harvey Avenue	*1196
Just upstream of Harvey Avenue	*1203
Just downstream of Lake Road	*1222
Just upstream of Lake Road	*1227
About 4300 feet upstream of Lake Road	*1231
Maps available for inspection at the Engineer's Office, City Hall, 317 South Washington, Wellington, Kansas.	
VIRGINIA	
Fairfax County (Unincorporated Areas) (FEMA Docket No. 6941)	
Pimmit Run	
Approximately 520 feet downstream of State Route 694	*275

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
At State Route 695	*281
At footbridge, approximately .40 mile downstream of State Route 7 culvert	*322
Approximately 670 feet upstream of State Route 7	*360
Little Hunting Creek:	
At confluence with Potomac River	*9
Approximately 45 feet downstream of U.S. Route 1	*16
Approximately 440 feet upstream of Janna Lee Avenue	*25
Approximately 1.17 miles upstream of Janna Lee Avenue	*32
Tributary 1 to Little Hunting Creek:	
At confluence with Little Hunting Creek	*9
Approximately .20 mile upstream of Camden Street	*9
North Branch:	
At confluence with Little Hunting Creek	*9
At downstream side of State Route 628	*12
Approximately .19 mile upstream of confluence of Paul Spring Branch	*19
Tributary 1 to North Branch:	
At confluence with North Branch	*12
Approximately .20 mile upstream of Stacey Road	*17
Paul Spring Branch:	
At confluence with North Branch	*17
At downstream side of State Route 626 culvert	*50
At downstream side of Paul Spring Road culvert	*81
Approximately 800 feet upstream of University Drive	*153
Dogue Creek:	
Approximately 875 feet downstream of Mount Vernon Road	*9
Approximately 50 feet downstream of U.S. Route 1	*14
Approximately 250 feet upstream of State Route 622	*20
Approximately .34 mile above confluence of Barnyard Run	*35
At upstream side of State Route 611	*68
North Fork Dogue Creek:	
At confluence with Dogue Creek	*12
At upstream side of State Route 624 culvert	*22
Approximately 250 feet upstream of Woodley Drive culvert	*35
Tributary 1 to North Fork Dogue Creek:	
Approximately 295 feet upstream of State Route 623	*15
At downstream side of State Route 622 culvert	*19
At upstream side of Frye Road culvert	*23
Tributary 2 to North Fork Dogue Creek:	
At confluence with North Fork Dogue Creek	*18
At upstream side of State Route 235 culvert	*24
Long Branch of Fourmile Run:	
Approximately .72 mile above confluence with Fourmile Run	*214
Approximately 82 feet downstream of State Route 714	*255
Approximately .23 mile upstream of Olin Drive	*307
Tripps Run:	
Approximately 625 feet downstream of Potterton Drive	*213
Approximately 540 feet downstream of State Route 613	*226
Approximately 395 feet downstream of Dashiell Road	*241
Approximately 535 feet upstream of State Route 649	*248
Approximately 325 feet upstream of Sissler's Bridge	*260
Holmes Run:	
Approximately 475 feet downstream of Lakeview Causeway	*210
Approximately 615 feet upstream of State Route 613	*226
Approximately 170 feet downstream of State Route 649	*255
At the downstream side of U.S. Route 50	*292
Approximately 275 feet downstream of U.S. Routes 29 and 211	*322
Approximately .21 mile upstream of State Route 703	*341

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Maps available for inspection at the Department of Public Works, Utilities Planning and Design Division, Storm Drainage Branch 3930 Pender Drive, Fairfax, Virginia.	

Harold T. Duryee,

Administrator, Federal Insurance Administration.

Issued: December 21, 1989.

[FR Doc. 90-267 Filed 1-9-90; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 87-618, RM-6133, 6912]

Radio Broadcasting Service; Fort Rucker and Geneva, AL and Blakely, GA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document denies a petition filed by the United States Army Aviation Center, Fort Rucker, Alabama, requesting the deletion of Channel 226A at Fort Rucker, Alabama. This document also substitutes Channel 229C1 for Channel 229C2 at Geneva, Alabama, and modifies the license of Station WRJM-FM accordingly, substitutes Channel 226A for Channel 228A at Blakely, Georgia, and modifies the license of Station WBBK-FM accordingly, and substitutes Channel 263A for Channel 226A at Fort Rucker, Alabama, at the request of Shelley Broadcasting Company, Inc., licensee of Station WRKM-FM. See 53 FR 3762, February 9, 1988. Coordinates used for Channel 229C1 at Geneva are 31-02-40 and 85-57-34. Coordinates used for Channel 226A at Blakely are 31-20-03 and 84-50-21. Coordinates used for Channel 263A at Fort Rucker, Alabama, are 31-21-55 and 85-40-49, with a site restriction of 2.2 kilometers (1.4 miles) east to avoid a short-spacing to Station WZTZ(FM), Channel 266A, Elba, Alabama. With this action, the proceeding is terminated.

EFFECTIVE DATE: February 20, 1990.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 87-618, adopted December 7, 1989, and released January 3, 1990. The full text of this Commission decision is available during business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73:

Radio broadcasting.

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments, is amended as follows: for Alabama, under Fort Rucker, remove Channel 226A and add Channel 263A, and under Geneva, remove Channel 229C2 and add Channel 229C1; for Georgia, under Blakely, remove Channel 228A and add Channel 226A.

Federal Communications Commission.

Karl Kensinger,

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

[FR Doc. 90-493 Filed 1-9-90; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 87-36; RM-5503 & RM-5923]

Radio Broadcasting Services; Hiawatha, Manhattan and Ogden, KS

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The *Notice of Proposed Rule Making* in this proceeding was issued in response to a petition filed by KNZA, Inc., requesting the substitution of FM Channel 268C2 for Channel 280A at Hiawatha, Kansas, and modification of its license for Station KNZA-FM. *See* 52 FR 8315, March 17, 1987. At the same time, Manhattan Broadcasting Co., filed a proposal requesting the substitution of Channel 268C2 for Channel 269A at Manhattan. That proposal was accepted as a timely counterproposal in this proceeding. After comments and replies, the Commission made a preliminary decision to allot Channel 268C2 to Manhattan, Kansas, Channel 280C2 to

Hiawatha, Kansas, and to substitute Channel 278A for Channel 280A at Ogden, Kansas. Accordingly, the Commission directed an Order to Show Cause to Station KQLA, Channel 280A, Ogden, Kansas. *See* 54 FR 18557, May 1, 1989. Kaw Valley Broadcasting Company, licensee of Station KQLA, Channel 280A, Ogden, consented to the substitution of channels. Therefore, we shall substitute Channel 268C2 for Channel 269A at Manhattan, Kansas, and modify the license of Station KMKF to specify Channel 268C2. The coordinates for Channel 268C2 are 39–16–01 and 96–28–01. We shall also substitute Channel 280C2 for Channel 280A at Hiawatha, Kansas, and modify the license of Station KNZA–FM. The coordinates for Channel 280C2 are 39–40–18 and 95–28–54. To accommodate Channel 280C2 at Hiawatha, we shall substitute Channel 278A for Channel 280A at Ogden, Kansas, and modify the license for Station KQLA to specify Channel 278A. The coordinates for Channel 278A are 39–09–21 and 96–36–44.

EFFECTIVE DATE: February 20, 1990.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 87–36, adopted December 13, 1989, and released January 3, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW, Washington, DC. The Complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW, Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 39—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments is amended under Kansas, by removing Channel 280A and adding Channel 280C2 at Hiawatha, by removing Channel 269A and adding Channel 268C2 at Manhattan, and by removing Channel 280A and adding Channel 278A at Ogden.

Federal Communications Commission.

Karl Kensinger,

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

[FR Doc. 90–494 Filed 1–9–90; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 171, 172, 173, and 175

[Docket No. HM–126C; Amdt. Nos. 171–102, 172–116, 173–213, 175–45]

RIN No. 2137–AA88

Emergency Response Communication Standards; Corrections in Response to Petitions for Reconsideration; and Extension of Effective Date

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Final rule; corrections in response to petitions for reconsideration; and extension of effective date.

SUMMARY: This document revises and extends the effective date of the final rule published on June 27, 1989, under Docket HM–126C (54 FR 27138). The final rule amended the Hazardous Materials Regulations (HMR; 49 CFR parts 171–180) by establishing new emergency response information requirements for the transportation of hazardous materials. These revisions are made in response to eleven petitions for reconsideration of certain aspects of the final rule.

EFFECTIVE DATES: The effective date of the final rule published June 27, 1989, (54 FR 27138) is changed from April 2, 1990 to June 4, 1990. The effective date of this Final Rule, which is in response to petitions for reconsideration, is June 4, 1990. However, compliance with this final rule is authorized immediately.

FOR FURTHER INFORMATION CONTACT: Helen L. Engrum, Standards Division, Office of Hazardous Materials Transportation, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590–0001. Telephone: (202) 366–4488.

SUPPLEMENTARY INFORMATION: A final rule, published on June 27, 1989, amended the HMR to include new requirements for additional emergency response information on shipping papers and packages, and maintenance of emergency response information on transport vehicles and at transportation facilities. The requirements adopted under Docket HM–126C are intended to improve hazard communication standards by requiring that more detailed emergency response information accompany shipments of hazardous materials. This final rule requires that: (1) Emergency response information be provided to transporters, carried on transport vehicles and maintained at facilities where hazardous materials are received, stored or handled during transportation, (2) shipping papers contain an emergency response telephone number which is monitored 24 hours a day in order to provide detailed emergency response information to emergency responders, and (3) technical names be included in the descriptions of materials described on shipping papers by "n.o.s." (not otherwise specified) descriptions.

RSPA received eleven petitions for reconsideration from various chemical manufacturers and chemical and other trade associations following publication of the final rule. These petitions, and the actions being taken by RSPA in this final rule, are discussed in the following paragraphs.

I. Petitions for Reconsideration

A. Definition of Technical Name

Seven petitioners requested that the definition in 49 CFR 171.8 for "technical name" be revised to provide protection for "trade secrets", while establishing a mechanism by which the chemical identities of hazardous materials are made known, by allowing the use of chemical family group names in place of specific technical names of materials which may disclose trade secrets. The Chemical in place of specific technical names of materials which may disclose trade secrets. The Chemical Specialties Manufacturers Association (CSMA) believes that the continued protection of trade secret formulary information is critical to the success of many chemical specialty products. CSMA stated:

"• • • CSMA petitions RSPA to reconsider the amended definition of "technical name" so as to provide necessary protection for trade secrets while also establishing a mechanism by which the specific chemical identities of hazardous chemicals could be obtained quickly in the event of an emergency. Alternatively, CSMA petitions RSPA to implement other means of protecting those trade secrets. RSPA's decision not to provide protection for trade secrets not only would result in the loss of valuable trade secrets, but is also unecessary in light of alternative methods of providing specific chemical identities which Congress specifically ordered in Title III of the Superfund Amendments and Reauthorization Act of 1986 (SARA) and which EPA and OSHA have implemented."

The Chemical Manufacturers Association (CMA) indicated that the former definition of technical name provided shippers with a mechanism to protect trade secrets; and that one member company estimates that the new requirement would force it to disclose its trade secrets for 20 to 60 products. CMA indicated that other companies also would expect loss of trade secrets. Other petitioners, addressing the revision to the definition of technical name, expressed concerns similar to those identified by CMA.

Under Docket HM-126C, as noted in the definition of "technical name" in § 171.8, the use of trade names as the specific technical name is not permitted. However, CMA expressed concerns involving the use of trade names or common names and stated that, in most cases, a trade name or common name is usually the product name. Because emergency response information can be obtained from CHEMTREC by using the product name, they believe using the product name would be the best method of retrieving chemical-specific emergency response information. CMA stated:

> "The requirement to include the highly-specific technical names in parentheses for n.o.s. materials will greatly limit the benefits that CHEMTREC could otherwise provide."

RSPA believes that, in most instances, use of a trade name as the technical name of a material on a shipping paper would not identify the chemical constituents of most materials in emergencies. The objective of the requirement for identifying technical constituents is to ensure that these constituents are readily known to emergency response personnel so that they can quickly implement procedures for responding to and mitigating hazardous materials incidents. The intent of the requirement for a 24-hour emergency response telephone number is to provide emergency response information beyond what is immediately available to the responder at the scene of an incident. Using a product name as the technical name on a shipping paper will not quickly identify the specific chemicals in a material and, therefore, it may not be used to meet the definition for technical name in § 171.8, or to satisfy the additional emergency response information requirements in § 172.203(k). However, a shipping paper may contain additional information as currently specified in § 172.201(a)(4). Consequently, the regulations do not prohibit the entry of product names or trade names on the shipping paper as additional information.

A petition from Merck and Co., Inc., in regard to technical names for pharmaceutical products described by "n.o.s." descriptions, requested that the current edition of the "United States Adopted Names (USAN)" and the "United States Pharmacopeial Convention, Inc., (USP) Dictionary of Drug Names" be included in the definition of "technical name" in 49 CFR 171.8, as sources of technical names for pharmaceutical drugs. By revising the definition of the technical name to read essentially as the former definition in § 171.8, the inclusion of the aforementioned documents as sources of technical names for pharmaceutical drugs would not be necessary since the former definition allows the use of chemical names in recognized scientific and technical handbooks, journals and texts, such as the USAN and USP.

Petitioners offered several recommendations to resolve this issue, which they believed would still provide the necessary information to emergency responders. Among these were: (1) Restoration of the former definition of technical name while retaining the other provisions of the final rule; (2) a requirement that the emergency telephone contact have available trade secret chemical identities, to be provided to emergency response personnel only in the event of an emergency; or, (3) inclusion of a regulatory mechanism to address a shipper's assertion of the need for trade secret protection.

In issuing the final rule, RSPA did not envision undue disclosure of trade secret information. Generally, RSPA was responding to a need to make more product specific information available to emergency responders in their attempts to mitigate incidents involving hazardous materials. Because an exact chemical formulation is not required under the final rule, RSPA did not believe that showing the identification of technical names of no more than two constituents in mixtures and solutions on shipping papers and packages would require disclosure of "trade secret" information relative to the product being shipped. However, based on the merits of the petitions for reconsideration, RSPA is revising the definition of "technical name" to read essentially as the former definition in 49 CFR 171.8. The use of a "trade name" as a technical name is still prohibited, except for those trade names that appear in the Tables in part 172. This revision of the definition for technical name should alleviate the difficulties identified by petitioners relative to the disclosure of trade secret information.

B. Emergency Response Information

A petition from the Air Transport Association of America (ATA) concerned the requirement to have emergency response information "immediately available" and maintained in the same manner as prescribed for shipping papers aboard aircraft. In their petition, ATA stated that the requirements of this final rule focus more on problems experienced in surface transportation, in which large volumes of hazardous materials in transportation may create emergencies in a variety of jurisdictions. ATA expressed concern that RSPA did not take into account the fact that shipping paper aboard aircraft are attached to the packages of hazardous materials stowed in cargo compartments, which in most cases are inaccessible to the crew in flight. ATA believes that a better way to provide information to cockpit crews would be to require the appropriate emergency response information be maintained at an air carrier's systems operations control center, accessible by crews in flight by radio, and not to require the information to be aboard aircraft.

ATA also questioned whether the requirement for maintenance of emergency response information aboard aircraft would be subject to record retention requirements as are applicable to shipping papers under 49 CFR 175.30(a)(2), and stated that the new regulations do not clearly delineate the responsibility of a shipper to provide to a carrier current, detailed emergency response information and, therefore, a carrier would be obliged to accept and carry any emergency response data that the shipper tenders with the shipment. ATA stated that the regulatory requirements should address shippers' and carriers' obligations for providing and maintaining emergency response information. They further stated that in view of the objectives of some of the provisions of the final rule, safer, more efficient alternatives are available in the air mode to achieve the results DOT seeks.

RSPA does not agree with ATA's contention that emergency response information should not be available aboard aircraft. ATA stated, however, that although they do not support the maintenance of emergency response information in the cockpit of an aircraft, they may be more willing to accept the requirement if compliance precluded the carriage of numerous MSDS. Since the written notification to pilot-in-command contains the basic description of hazardous materials, RSPA believes that

the requirement for maintenance of emergency response information documents would be satisfied if maintained in the same manner as the notification to pilot-in-command of hazardous materials aboard aircraft. Therefore, the requirement in 49 CFR 175.33 is revised to require that emergency response information be maintained in the same manner as the notification to pilot-in-command.

Shippers have expressed uncertainty with respect to their responsibility to ensure that emergency response information is present during transportation of the hazardous material. The Conference on Safe Transportation of Hazardous Articles, Inc. (COSTHA) expressed concerns that:

"Although the rule imposes an obligation on a shipper of hazardous materials to assure that the identified emergency response information is immediately available when the shipment is offered for transportation, the rule does not indicate the manner in which a shipper is to fulfill this responsibility. As a result, hazardous materials shippers have expressed uncertainty with respect to their obligations under the final rule, and concern that their actions taken in an attempt to comply with the rule might be deemed insufficient by DOT."

RSPA believes shippers could fulfill their responsibility to facilitate compliance with the requirements for emergency response information in a number of ways. For example: the shipper may place the ERG or an equivalent document on the transport vehicle, ensure that such placement occurs, or put the required emergency response information on the shipping papers. A shipper might take any of several steps to ensure that the carrier has emergency response information on the vehicle. These steps could include requiring a driver to sign an acknowledgement form either separate from or included on the shipping paper, a visual inspection to determine the presence of appropriate guidance material on the vehicle, or a contractual agreement between the shipper and the carrier to maintain emergency response information on the vehicle during transportation of the hazardous material. However, if the driver of a vehicle does not have the required emergency response information, the shipper must ensure that a copy of the ERG or equivalent document accompanies the shipment when it is offered for transportation.

To ensure immediate availability of emergency response information, the intent of the final rule is to improve hazard communication standards by requiring that more detailed emergency response information accompanies shipments of hazardous materials. RSPA understands the concerns of carriers in being obliged to accept any form of emergency response information (e.g., MSDS). Because there could conceivably be numerous MSDS's for different hazardous materials on transport vehicles, aboard aircraft and aboard vessels, carriers have indicated they would prefer the MSDS's not be used to satisfy the emergency response information requirements for hazardous shipments. RSPA notes that those same concerns were raised in response to the August 1987 NPRM. It is for this reason, in part, that RSPA provided flexibility in the final rule, allowing for various methods of complying with the requirements regarding the form of emergency response information. Carriers may choose to comply with the emergency response information requirements by maintaining a copy of the ERG on each vehicle transporting hazardous materials. In regard to ATA's concerns, air carriers may use the ICAO emergency response guidance or an equivalent document aboard aircraft. Shippers and carriers can execute agreements that the carrier will maintain the required emergency response information. In addition, since emergency response information is required on transport vehicles, aboard aircraft and aboard vessels only when hazardous materials are being carried, emergency response documents would not be subject to the record retention requirements applicable to shipping papers, such as for air carriers under § 175.30(a)(2). RSPA believes that the decision concerning which method(s) to use to implement this requirement is an operational matter to be decided between the shipper and carrier.

C. Telephone Contact for Emergency Response Information

ATA expressed doubts about the efficacy of the 24-hour emergency response telephone number required on shipping papers for shipments originating overseas, and especially with respect to shipments from individuals. They believe that the 24-hour emergency response telephone number attaches an "unbilical cord" to a shipment that no ordinary individual or noncommercial shipper can provide, and that, to eliminate some of the most extreme problems related to the 24-hour telephone number requirement, there should be an exception for certain commodities, such as dry ice, motor vehicles (self-propelled vehicles), and life-saving appliances, self-initiating (inflatable liferafts), which may pose a limited hazard in transportation.

RSPA agrees with ATA's contention that certain hazardous materials, on the basis that they may pose a limited hazard in transportation, should generally be excepted from the requirements for providing a 24-hour emergency response telephone number and, in the final rule, RSPA included a provision allowing hazardous materials for which shipping papers are not required to be excepted from the emergency response information requirements. However, RSPA does not believe that ATA has provided sufficient justification for extending this exception to the materials specifically named in ATA's petition or to other categories of hazardous materials. Therefore, this portion of ATA's petition is denied.

In this document, an editorial correction is made to clarify the requirement in § 172.604(a)(2) addressing the 24-hour emergency response telephone number and the qualifications of that contact. The intent of the 24-hour emergency telephone number requirement is that the number must be the shipper's, or a number that can be immediately accessed (e.g., CHEMTREC), wherein the contact will be capable of providing comprehensive emergency response information.

D. Additional Considerations

Marking the Technical Name on Non-Bulk Packages of Hazardous Materials

A petition from Liquid Air concerned the requirement for marking the technical name on packages of hazardous materials in parentheses "immediately following" the proper shipping name for compressed gases described by "n.o.s." descriptions (i.e., Compressed gas, n.o.s.). The requirements of the final rule made no provision for marking non-bulk packages filled prior to the effective date of April 2, 1990 (54 FR 27138). Liquid Air stated that they would need at least 2–3 years until April 2, 1992 or 1993 to use up current compressed gas, n.o.s. label inventories at their facilities and at their label vendor. They were of the opinion that the Occupational Safety and Health Administration's (OSHA) requirement for marking non-bulk packagings should satisfy DOT's concerns that the identity of the ingredients be made known to emergency response personnel.

Several other petitioners stated that RSPA should provide an exception from marking the technical name on packages of hazardous materials that are currently in the distribution system, for which transportation to end users may

not be completed prior to the effective date of the final rule. Although a phase-in time of approximately nine months was provided for in the final rule, RSPA agrees this may not be an adequate time period for transportation of all packages filled prior to the effective date. Therefore, in this revision of the final rule, RSPA is providing that packages filled prior to the effective date may continue to be shipped until one year thereafter without the need to remark them in accordance with the new marking requirements.

Liquid Air and other petitioners believe that the present method of identifying the technical names of components of n.o.s. descriptions on non-bulk packages "in association with" the proper shipping name should be permitted to continue. the new provision in paragraph (c) of § 172.301 requires that the technical name of the hazardous material be displayed "immediately following" rather than "in association with" the proper shipping name on non-bulk packages. For consistency, and in view of petitioners' concerns for marking the technical name(s) of the ingredients of hazardous materials on non-bulk packages, marking which conforms to OSHA's Hazard Communication Standard (HCS; 29 CFR 1910–1200(f)) for labeling containers and, for compressed gas cylinders, labeling or marking permitted by the Compressed Gas Association (CGA) Pamphlet C–7 are acceptable for meeting the marking requirements of the final rule. Therefore, the provision in paragraph (c) of § 172.301 is being revised to permit the display of the technical name of the hazardous material "in association with" rather than "immediately following" the proper shipping name.

Additional Description Requirements for Hazardous Waste Materials

The Chemical Waste Transportation Institute's (CWTI) petition requested an exception for all hazardous waste materials. In addition to the exceptions provided in the final rule (54 FR 27138) for (1) Wastes in lab packs (§ 173.12), and (2) wastes that are also hazardous substances described as "Hazardous waste, liquid or solid, n.o.s." and additionally described in accordance with § 172.203(c), CWTI requested that RSPA permit the use of the EPA hazardous waste number in place of the technical name description on shipping papers and packages for hazardous wastes which are described by "n.o.s." descriptions, are not also hazardous substances, and meet DOT hazard classes other than ORM–E.

RSPA believes that in an emergency situation the best way to identify the hazards associated with a material described by an "n.o.s." description is through its technical name. RSPA realizes that for many waste materials the chemical constituents that contribute predominately to the hazards of the materials may be unknown. However, allowing the use of the EPA hazardous waste number in place of the technical name for all hazardous wastes, even when the chemical constituents are known, would defeat the intent of the final rule that more specific information be available in an emergency situation. Therefore, for hazardous wastes which are described by "n.o.s." descriptions, are not also hazardous substances, and meet the definition of any DOT hazard class, other than ORM–E, the exception in § 172.203(k)(4)(ii) is revised to allow the use of the EPA hazardous waste number in place of the technical name—but only in those instances where the chemical constituents are unknown. Therefore, CWTI's petition to unconditionally except all hazardous wastes from the requirement for inclusion of technical names for "n.o.s." descriptions on shipping papers and packages is granted in part and denied in part.

Delay of Effective Date of the Final Rule Under Docket HM–126C

The American Trucking Associations petitioned for a delay of the April 2, 1990 effective date of the final rule to assure that all its affected member carriers will be afforded the necessary time to equip their vehicles with the latest edition of the DOT Emergency Response Guidebook (ERG). The petition, filed after the allowable time, requested that RSPA grant a delay of 90 days from the date of public availability of the ERG for implementation of that part of 49 CFR, subpart G of part 172, requiring emergency response information to accompany shipping papers for hazardous materials shipments. The American Trucking Associations stated:

"* * * Although it is a shipper responsibility to provide the necessary information, carriers realize that the most effective method of compliance with the final rule will best be accomplished through the use of the Emergency Response Guidebook." In real-world applications, Less-than-Truckload (LTL) carriers have all but ruled out the use of individual Material Safety Data Sheets (MSDS) or printing the information on each shipping paper as methods of compliance with the final rule. For ease of compliance for both shippers and carriers, most carriers have elected to place a copy of the latest Emergency Response Guidebook in the cab of each truck."

Based on the changes made to the final rule under Docket HM–126C, as a result of the petitions for reconsideration, which also included requests for the delay of the effective date, RSPA is extending the effective date of the final rule to June 4, 1990. Also, RSPA anticipates that the 1990 Emergency Response Guidebook, for initial response to hazardous materials incidents, will be available from commercial sources in the Spring of 1990.

Changes made to the final rule issued June 27, 1989, are discussed in order of the section affected in the following paragraphs. Additional editorial changes and clarifications of the regulations are discussed in this section-by-section review.

II. Review by Sections

The regulatory text of this document amends the HMR as published in the October 1, 1989 edition of title 49, Code of Federal Regulations (49 CFR). However, as an aid to the reader, the following section-by-section review of changes shows the page numbers in the June 27, 1989 final rule on which the affected sections appear.

Section 171.8. In § 171.8, on page 54 FR 27144, the definition of "technical name" is revised to allow the use of descriptions for hazardous materials found in "scientific and technical handbooks, journals and texts."

Section 172.203. On page 54 FR 27144, an editorial correction is made in § 172.203(k)(2) in the example of the shipping description to include the hazard class for materials containing two or more hazardous materials. on page 54 FR 27145, in § 172.203(k)(4)(i) the proper shipping name is revised to show "or" in italics, and § 172.203(k)(4)(ii) is being revised to allow the EPA hazardous waste number in place of the technical name on shipping papers and packages for all hazardous wastes described by n.o.s. descriptions, only in those instances where the chemical constituents are unknown. In addition, paragraph (l) of this section is revised to change the paragraph reference "(i)(2)", which was removed and redesignated, to read "(k) (1) and (2)" of this section. (The revision to paragraph (l) of this section was inadvertently omitted in the June 27, 1989, final rule.)

Section 172.301. In § 172.301, on page 54 FR 27145, paragraph (c) is revised by removing the words "immediately following" and inserting in their place the words "in association with". Also, a paragraph (d)(3) is added to this section to provide an exception from the technical name marking requirements

for non-bulk packages filled prior to the effective date of this final rule.

Section 172.505. In § 172.505, the paragraph reference "172.203(k)(4)", which was revised, is corrected to read "§ 172.203(m)(3)", which was added to § 172.203. (The correction to § 172.505 was inadvertently omitted in the June 27, 1989 final rule.)

Section 172.602. On page 54 FR 27146, § 172.602(a) is revised to allow descriptions under regulations of ICAO, IMDG and the TDG, as appropriate. On page 54 FR 27146, paragraph (a)(5) of this section is revised to delete the words "small" and "large" fires. On page 54 FR 27146, § 172.602, paragraph (b)(3)(ii), is rewritten to allow use of hazardous materials descriptions other than those specified in § 172.101, if otherwise permitted, such as those authorized under §§ 171.11, 171.12, and 171.12a for shipments under the ICAO Technical Instructions, the IMDG Code and the TDG regulations, respectively. On page 54 FR 27146, paragraph (b)(3)(iii) is revised to clarify that, aboard aircraft, the ICAO ERG and, aboard vessels, the IMO EMS may be used to satisfy the requirements for emergency response information. In addition, on page 54 FR 27146, paragraph (c)(1) of this section is revised to require that emergency response information be maintained in the same manner as the written notification to pilot-in-command aboard aircraft.

Section 172.604. § 172.604(a)(2), on page 54 FR 27146, the word "either" is added between the words "is" and "knowledgeable" and the word "and" is added between the words "shipped" and "has" to clarify that the 24-hour telephone number may be the shipper's, or the number of an organization that is capable of providing comprehensive emergency response information.

Section 173.4. In § 173.4, paragraph (a)(1)(iii), the paragraph reference "§ 172.203(k)(4)", which was revised, is corrected to read "§ 172.203(m)(3)", which was added to § 172.203. (The revision to § 173.4 was inadvertently omitted in the June 27, 1989 final rule.)

Section 175.33. This section is amended by revising paragraph (b) to require that the emergency response information be maintained in the same manner as the written notification to pilot-in-command aboard aircraft transporting hazardous materials. This section did not appear in the June 27, 1989 final rule.

III. Administrative Notices

A. Paperwork Reduction Act

The changes and new requirements for information collection in §§ 172.201, 172.203, 172.602, and 172.604 have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–522) under OMB control numbers 2137–0034 and 2137–0580 (expiration date: June 30, 1992).

B. Executive Order 12291

The RSPA has determined that this final rule (1) does not meet the criteria specified in section 1(b) of Executive Order 12291 and is, therefore, not a major rule; (2) is not considered to be a "significant" rule under DOT Regulatory Policies and Procedures (44 FR 11034); (3) will not affect not-for-profit enterprises or small governmental jurisdictions; and (4) does not require a Regulatory Impact Analysis or an Environmental Impact Statement under the National Environmental Policy Act (49 U.S.C. 4321 *et seq.*). The changes made in this final rule do not modify or affect the original regulatory evaluation, which is available for review in the Docket.

C. Executive Order 12612

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

D. Impact on Small Entities

Based on limited information concerning size and nature of entities likely affected by this final rule, I certify this regulation will not have a significant economic impact on a substantial number of small entities. The changes made to this final rule do not modify or affect the original regulatory evaluation, which is available for review in the Docket.

E. Regulatory Information Number (RIN)

A regulatory information number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

List of Subjects

49 CFR Part 171

Exports, Hazardous materials transportation, Definitions, Hazardous waste, Imports, Reporting and recordkeeping requirements.

49 CFR Part 172

Hazardous materials transportation, Hazardous waste, Labeling, Packaging and containers, Reporting and recordkeeping requirements, Shipping papers, Markings, and Emergency response information.

49 CFR Part 173

Hazardous materials transportation, Packaging and containers, Radioactive materials, Reporting and recordkeeping requirements.

49 CFR Part 175

Air carriers, Hazardous materials transportation, Radioactive materials, Reporting and recordkeeping requirements.

Note: The effective date of the final rule published June 27, 1989 [54 FR 27138], is changed from April 2, 1990 to June 4, 1990.

In consideration of the foregoing, 49 CFR parts 171, 172, 173, and 175 are amended as follows:

PART 171—GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS

1. The authority citation for part 171 is revised to read as follows:

Authority: U.S.C. App. 1802, 1803, 1804, 1805, 1808; 49 CFR part 1.

§ 171.8 [Amended]

2. In § 171.8, the definition of "Technical name" is revised to read as follows:

§ 171.8 Definitions and abbreviations.

* * * * *

Technical name means a recognized chemical name currently used in scientific and technical handbooks, journals, and texts. Generic descriptions are authorized for use as technical names provided they readily identify the general chemical group. Examples of acceptable generic descriptions are organic phosphate compound, petroleum aliphatic hydrocarbons, and tertiary amines. Except for names which appear in subpart B of part 172 of this subchapter, trade names may not be used as technical names.

* * * * *

PART 172—HAZARDOUS MATERIALS TABLES, HAZARDOUS MATERIALS COMMUNICATIONS REQUIREMENTS AND EMERGENCY RESPONSE INFORMATION REQUIREMENTS

3. The authority for part 172 continues to read as follows:

Authority: 49 U.S.C. App. 1803, 1804, 1808; 49 CFR part 1.

4. In § 172.203, paragraphs (k)(2), (k)(4)(i), (k)(4)(ii) and (l) are revised to read as follows:

§ 172.203 Additional description requirements.

* * * * *

(k) * * *

(2) If a hazardous material is a mixture or solution of two or more hazardous materials, the technical names of at least two components most predominately contributing to the hazards of the mixture or solution must be entered on the shipping paper as required by paragraph (k) of this section. For example, "Flammable liquid, corrosive, n.o.s., Flammable liquid, UN2924 (contains Methanol, Potassium hydroxide)".

(3) * * *

(4) * * *

(i) To a material that is described using the proper shipping name "Hazardous Substance, liquid or solid, n.o.s." provided the material is described in accordance with the provisions of § 172.203(c) of this part; or

(ii) To a material that is a hazardous waste provided the chemical constituents are unknown and the EPA hazardous waste number is included on the shipping paper in association with the basic description; or a hazardous waste which is described in accordance with the provisions of § 172.203(c) of this part.

(l) *IM portable tanks.* A hazardous material described by an "n.o.s." entry in § 172.101 or § 172.102 (when authorized) and offered for transportation in an IM portable tank must be described on shipping papers in accordance with the provisions of paragraphs (k)(1) and (k)(2) of this section.

* * * * *

5. In § 172.301, paragraph (c) is revised and paragraph (d)(3) is added to read as follows:

§ 172.301 General marking requirements.

* * * * *

(c) *Technical names.* Each non-bulk packaging containing hazardous materials subject to the provisions of § 172.203(k) of this part must be marked with the technical name in parentheses in association with the proper shipping name, in accordance with the requirements and exceptions specified for display of technical descriptions on shipping papers in § 172.203(k) of this part.

(d) * * *

(3) Display of technical names on non-bulk packagings filled for shipment prior to June 4, 1990 until June 4, 1991.

6. Section 172.505 is revised to read as follows:

§ 172.505 Special placarding requirements for certain poisonous materials.

Each transport vehicle and freight container that contains a material subject to the "Poison-Inhalation Hazard" shipping paper description of § 172.203(m)(3) must be placarded POISON on each side and each end in addition to the placards required by § 172.504. This requirement also applies to portable tanks. Duplication of POISON placards is not required nor display of UN class numbers at the bottom of additional placards required by this section.

7. In § 172.602, paragraphs (a)(1), (a)(5), (b)(3)(ii), (b)(3)(iii), and (c)(1) are revised to read as follows:

§ 172.602 Emergency response information.

(a) * * *

(1) The basic description and technical name of the hazardous material as required by §§ 172.202 and 172.203(k), the ICAO Technical Instructions, the IMDG Code, or the TDG Regulations, as appropriate;

* * * * *

(5) Immediate methods for handling fires;

* * * * *

(b) * * *

(3) * * *

(ii) In a document, other than a shipping paper, that includes both the basic description and technical name of the hazardous material as required by §§ 172.202 and 172.203(k), the ICAO Technical Instructions, the IMDG Code, or the TDG Regulations, as appropriate, and the emergency response information required by this subpart (e.g., a material safety data sheet); or

(iii) Related to the information on a shipping paper, a written notification to pilot-in-command, or a dangerous cargo manifest, in a separate document (e.g., an emergency response guidance document), in a manner that cross-references the description of the hazardous material on the shipping paper with the emergency response information contained in the document. Aboard aircraft, the ICAO "Emergency Response Guidance for Aircraft Incidents Involving Dangerous Goods" and, aboard vessels, the IMO "Emergency Procedures for Ships Carrying Dangerous Goods", or equivalent documents, may be used to satisfy the requirements of this section for a separate document.

(c) * * *

(1) *Carriers.* Each carrier who transports a hazardous material shall maintain the information specified in paragraph (a) of this section in the same manner as prescribed for shipping papers, except that the information must be maintained in the same manner aboard aircraft as the notification to pilot-in-command, and aboard vessels in the same manner as the dangerous cargo manifest. This information must be immediately accessible to train crew personnel, drivers of motor vehicles, flight crew members, and bridge personnel on vessels for use in the event of incidents involving hazardous materials.

* * * * *

8. In § 172.604, paragraph (a)(2) is revised to read as follows:

§ 172.604 Emergency response telephone number.

(a) * * *

(1) * * *

(2) The number of a person who is either knowledgeable of the hazards and characteristics of the hazardous material being shipped and has comprehensive emergency response and accident mitigation information for that material, or has immediate access to a person who possesses such knowledge and information; and

* * * * *

PART 173—SHIPPERS-GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

9. The authority citation for part 173 is revised to read as follows:

Authority: 49 U.S.C. app. 1803, 1804, 1805, 1808; 49 CFR part 1.

10. In § 173.4, paragraph (a)(1)(iii) is revised to read as follows:

§ 173.4 Exceptions for small quantities.

(a) * * *

(1) * * *

(iii) One (1) gram for authorized materials classed as Poison B or subject to the "Poison-Inhalation Hazard" shipping paper description requirements of § 172.203(m)(3); and

* * * * *

PART 175—CARRIAGE BY AIRCRAFT

11. The authority citation for part 175 is revised to read as follows:

Authority: 49 U.S.C. app. 1803, 1804, 1807, 1808; 49 CFR part 1.

12. In § 175.33, paragraph (b) is revised to read as follows:

§ 175.33 Notification of pilot-in-command.

* * * * *

(b) A copy of the written notification to pilot-in-command shall be readily available to the pilot-in-command

during flight. Emergency response information required by subpart G of part 172 of this subchapter must be maintained in the same manner as the written notification to pilot-in-command during transport of the hazardous material aboard the aircraft.

Issued in Washington, DC January 2, 1990 under authority delegated in 49 CFR part 1.

Travis P. Dungan,

Administrator, Research and Special Programs Administration.

[FR Doc. 90–339 Filed 1–9–90; 8:45 am]

BILLING CODE 4910-60-M

Proposed Rules

Federal Register
Vol. 55, No. 7
Wednesday, January 10, 1990

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 89-CE-39-AD]

Airworthiness Directives; Beech 90, 100, 200 and 300 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This Notice proposes to adopt a new Airworthiness Directive (AD), applicable to certain Beech 90, 100, 200 and 300 Series airplanes, which would require a one-time inspection of the aft fuselage moisture drain system. There have been reports of clogged or undersized drain openings which can trap water that may freeze and interrupt operation of the controls. This action is necessary to prevent possible loss of elevator control.

DATES: Comments must be received on or before February 9, 1990.

ADDRESSES: Beech Service Bulletin No. 2312, dated December 1989, applicable to this AD may be obtained from the Beech Aircraft Corporation, Commercial Service, Department 52, P.O. Box 85, Wichita, Kansas 67201-0085; Telephone (316) 681-7111. This information also may be examined at the Rules Docket at the address below. Send comments on the proposal in triplicate to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 89-CE-39-AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

FOR FURTHER INFORMATION CONTACT: Don Campbell, Aerospace Engineer, Airframe Branch, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 946-4409.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 89-CE-39-AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Discussion

Water which condenses inside or runs into the aft fuselage (tailcone area) of Beech 200 Series airplanes will flow by gravity to the lowest point in the tailcone, at the aft side of the aft pressure bulkhead. The water collected at this point then flows overboard through a vertical drain-hole. Water which must flow from right to left in the tailcone, to arrive at the overboard drain, passes through the crossflow drain hole. If either of these holes becomes clogged by foreign matter, water will not drain properly and a puddle deep enough to cover one or both elevator control cables can develop. This puddle can freeze, thus seizing one or both cables and preventing motion of the elevator. If the water freezes during flight, a hazardous situation results wherein the elevator cannot be properly controlled. This is known to have happened on at least two occasions involving Beech 200 Series airplanes, but, fortunately, no accident resulted. Drain blockage has generally been caused by improper use of epoxy (or similar) sealer, although dirt and debris washed into the openings are also contributors. The FAA has seen evidence that on some airplanes the crossflow drain is partially blocked by sealer, and it is likely that others exist which are completely blocked. Also, some crossflow drains may be smaller than design specifications. This situation exists despite quality control procedures employed by the manufacturer, and periodic inspection requirements in the maintenance manual. As a result, Beech issued Service Bulletin Number 2312, dated December 1989.

Due to design similarities between the various model series in the aft fuselage area, the 90, 100 and 300 Series airplanes could be also affected. These airplanes may have a drain system which differs somewhat from that in the 200 Series, but the likelihood of drain clogging exists nevertheless. Therefore, applicability of the proposed AD will include Beech 90, 100, 200 and 300 Series airplanes.

Since the condition described is likely to exist or develop in other Beech 90, 100, 200 and 300 Series airplanes of the same design, an AD is proposed which would require a one-time inspection of the aft fuselage moisture drain system in accordance with Beech Service Bulletin Number 2312, dated December 1989. The FAA has determined there are approximately 3,613 airplanes affected by the proposed AD. The cost of inspecting these airplanes per the proposed AD is estimated to be $35 per airplane. The total fleet cost is estimated to be $126,455. The cost of compliance with the proposed AD is so small that the expense of compliance will not have a significant financial impact on any small entities operating these airplanes.

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

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

List of Subjects in 14 CFR 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR 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 AD:

Beech: Applies to Models 65–90, 65–A90, B90, C90 and C90A (Serial Numbers (S/N) LJ–1 through LJ–1222); E90, F90, H90, 100, A100 and B100 (all S/N); 200 and B200 (S/N BB–2 through BB–1344); 200C, B200C, 200CT, B200CT, 200T, B200T, A200, A200C and A200CT (all S/N); and 300 (S/N FA–1 through FA–204 and FF–1 through FF–19) airplanes certificated in any category.

Compliance: Required within the next 100 hours time-in-service after the effective date of this AD, unless already accomplished. To prevent water accumulation in the aft fuselage which can freeze and restrict control movement, accomplish the following in accordance with the instructions in Beech Service Bulletin Number 2312, dated December 1989:

(a) Inspect the aft fuselage moisture drain system.

(1) If the drain system is unobstructed, no further action is required.

(2) If any obstruction of the drain system is found, prior to further flight remove the obstruction; and

(3) Report, in writing, any defects found to the Manager, Wichita Aircraft Certification Office (address below) within 7 days of the inspection. (Reporting approved by the Office of Management and Budget under OMB No. 2120–0056).

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

(c) An alternate method of compliance or adjustment of the compliance time, which provides an equivalent level of safety may be approved by the Manager, Wichita Aircraft Certification Office, FAA, 1801 Airport Road, Room 100, Wichita, Kansas 67209.

Note: The request should be forwarded through an FAA Maintenance Inspector, who may add comments and then send it to the Manager, Wichita Aircraft Certification Office. All persons affected by this directive may obtain copies of the document referred to herein upon request to the Beech Aircraft Corporation, Commercial Service, Department 52, P.O. Box 85, Wichita, Kansas 67201–0085; Telephone (316) 681–7111; or may examine this document at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on December 26, 1989.

Earsa L. Tankesley,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90–602 Filed 1–9–90; 8:45 am]

BILLING CODE 4910–13–M

FEDERAL TRADE COMMISSION

16 CFR Part 401

Trade Regulation Rule; Misuse of "Automatic" or Terms of Similar Import as Descriptive of Household Electric Sewing Machines

AGENCY: Federal Trade Commission.

ACTION: Notice of publication of Presiding Officer's Recommended Decision and Final Staff Report, and invitation for comment on the two reports.

SUMMARY: The Federal Trade Commission's Presiding Officer has released to the public the Presiding Officer's Report in the rulemaking proceeding to repeal the Trade Regulation Rule: Misuse of "Automatic" or Terms of Similar Import as Descriptive of Household Electric Sewing Machines. The report contains the recommended decision of the Presiding Officer based upon his findings and conclusions as to all relevant and material evidence, taking into account the Final Staff Report which contains the staff's recommendations to the Commission. The Final Staff Report has also been released.

Interested persons and the public are invited to submit written comments on both reports. The Comission has not reviewed or adopted either report. The Commission's final determination in the matter will be based upon the entire rulemaking record, includingcomments received in response to this notice.

DATE: Written comments will be receive until January 25, 1990.

ADDRESSES: Copies of the Presiding Officer's Report and the Final Staff Report are available at the Public Reference Branch, Room 130, Federal Trade Commission, 6th Street and Pennnsylvania Avenue NW., Washington, DC 20580. Telephone: 202–326–2222.

Written comments should be sent to Henry B. Cabell, Presiding Officer, Federal Trade Commission, 6th Street and Pennsylvania Avenue NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Henry B. Cabell (Presiding Officer), 202–326–3642.

SUPPLEMENTARY INFORMATION: In a Notice of Proposed Rulemaking published in 54 FR 38693, September 20, 1989, the Commission announced the commencement of a proceeding to consider whether or not the trade reglation rule concerning the misuse of "Automatic" or terms of similar import as descriptive of household electric sewing machines should be repealed, and invited written comment on the proposal. No written comments were received and a public hearing was not held. The Final Staff Report and the Presiding Officer's Report in the proceeding recommending repeal of the rule have now been placed on the rulemaking record [Public Record RO11008]. During the post record comment period which will end on January 25, 1990, the public, including persons interested in the proceeding, is invited to comment on these reports. Such comments should be confined to information already in the rulemaking record, and submitted on 8½ by 11 inch paper and those in excess of four pages should be accompanied for four copies.

The inclusion in comments of further evidence or factural material not presently in the rulemaking record may result in rejection of the comment as a whole.

The Commission has not yet reviewed the rulemaking record in this proceeding or determined whether or not to repeal the rule. Any decision by the Commission in this mater will be based solely upon the contents of the rulemaking record, including the material submitted in response to this notice.

Publication of the Presiding Officer's Report and the Final Staff Report should not be interpreted as representing the

views of the Commission or of any individual Commissioner.

List of Subjects in 16 CFR Part 401

Advertising, Sewing machines, Trade practices.

Henry B. Cabell,

Presiding Officer.

[FR Doc. 90-575 Filed 1-9-90; 8:45 am]

BILLING CODE 6750-01-M

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16 CFR Part 414

Trade Regulation Rule; Deception as to Transistor Count of Receiving Sets Including Transceivers

AGENCY: Federal Trade Commission.

ACTION: Notice of publication of Presiding Officer's Recommended Decision and Final Staff Report, and invitation for comment on the two reports.

SUMMARY: The Federal Trade Commission's Presiding Officer has released to the public the Presiding Officer's Report in the rulemaking proceeding to repeal the Trade Regulation Rule: Deception as to Transistor Count of Receiving Sets Including Transceivers. The report contains the recommended decision of the Presiding Officer based upon his findings and conclusions as to all relevant and material evidence, taking into account the Final Staff Report which contains the staff's recommendations to the Commission. The Final Staff Report has also been released. Interested persons and the public are invited to submit written comments on both reports. The Commission has not reviewed or adopted either report. The Commission's final determination in the matter will be based upon the entire rulemaking record, including comments received in response to this notice.

DATE: Written comments will be received until January 25, 1990.

ADDRESSES: Copies of the Presiding Officer's Report and the Final Staff Report are available at the Public Reference Branch, Room 130, Federal Trade Commission, 6th Street and Pennsylvania Avenue NW., Washington, DC 20580. Telephone: 202-326-2222.

Written comments should be sent to Henry B. Cabell, Presiding Officer, Federal Trade Commission, 6th Street and Pennsylvania Avenue NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Henry B. Cabell (Presiding Officer), 202-326-3642.

SUPPLEMENTARY INFORMATION: In a Notice of Proposed Rulemaking published in 54 FR 24192, June 6, 1989, the Commission announced the commencement of a proceeding to consider whether or not the trade regulation rule on Deception as to Transistor Count of Receiving Sets, Including Transceivers should be repealed, and invited written comment on the proposal. No written comments were received and a public hearing was not held. The Final Staff Report and the Presiding Officer's Report in the proceeding recommending repeal of the rule have now been placed on the rulemaking record [Public Record No. 215-69]. During the post record comment period which will end on January 15, 1990, the public, including persons interested in the proceeding, is invited to comment on these reports. Such comments should be confined to information already in the rulemaking record, and submitted on 8½ by 11 inch paper and those in excess of four pages should be accompanied by four copies.

The inclusion in comments of further evidence or factual material not presently in the rulemaking record may result in rejection of the comment as a whole.

The Commission has not yet reviewed the rulemaking record in this proceeding or determined whether or not to repeal the rule. Any decision by the Commission in this matter will be based solely upon the contents of the rulemaking record, including the material submitted in response to this notice.

Publication of the Presiding Officer's Report and the Final Staff Report should not be interpreted as representing the views of the Commission or of any individual Commissioner.

List of Subjects in 16 CFR Part 414

Advertising, Radio, Trade practices.

Henry B. Cabell,

Presiding Officer.

[FR Doc. 90-576 Filed 1-9-90; 8:45 am]

BILLING CODE 6750-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 15 and 68

[Gen. Docket No. 89-605; FCC 89-341]

Cordless Telephones

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In response to a petition filed by the Personal Communications Section of the Telecommunications Industry Association (TIA), the Commission is proposing to amend its rules to require that cordless telephones be equipped with security provisions to protect the public switched telephone network from unintentional line seizure and dialing, and to avoid unintentional ringing. These rules are necessary because it appears that instances of interference to the public switched telephone network from cordless telephones and the unintentional ringing of cordless telephones are growing problems, because there is strong evidence that the public safety service access system provided through the "911" dialing number is being harmfully affected by cordless telephones which unintentionally dial this number, and because it appears that the security coding of cordless telephones, which could provide an effective solution to these problems, is not being implemented at a satisfactory rate by manufacrturers. The proposed rules would help to eliminate this problem by requiring manufacturers of cordless telephones to incorporate digital code word circuitry restricting acess to the telephone network or ringing of the cordless telephone only to signals transmitted by associated base units and handsets.

DATES: Comments may be filed on or before March 13, 1990, and reply comments on or before April 12, 1990.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: George Harenberg, Technical Standards Branch, Office of Engineering and Technology, (202) 653-7314.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making in Gen. Docket No. 89-605, FCC 89-341, adopted on December 11, 1989, and released on December 29, 1989.

The full text of this proposal is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

The following collection of information contained in this proposed rule has been submitted to the Office of Management and Budget for review under section 3504(h) of the Paperwork Reduction Act. Copies of the submission may be purchased from the Commission's copy contractor,

International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037. Persons wishing to comment on this information collection should contact Eyvette Flynn, Office of Management and Budget, Room 3235 NEOB, Washington, DC 20503, (202) 395–3785. A copy of any comments made should also be sent to the Federal Communications Commission, Office of the Managing Director, Washington, DC 20554. For further information contact Jerry Cowden, Federal Communications Commission, (202) 632–7513.

OMB Number: None
Title: Cordless Telephone Security Coding.
Action: New collection.
Respondents: Businesses (including small businesses).
Frequency of Response: On occasion.
Estimated Annual Burden: 200 response; 200 hours total; 1 hours average burden per response.
Needs and Uses: Cordless telephones must incorporate digital security coding to protect the public switched telephone network from unintentional seizure and dialing, and user's from unintentional ringing. An attestation of compliance, and the means and procedures used to ensure the required protection, must accompany any application for authorization filed for the subject equipment.

Summary of Notice

1. The rules for cordless telephones were adopted by the Commission on December 22, 1983. The Commission, in its Report and Order in Gen. Docket 83–325, (49 FR 1512 1/12/84) stated that there was insufficient evidence to demonstrate that cordless telephones without security provisions would result in harm to telephone company central office equipment or lead to problems of misbilling to the extent that would warrant the mandating of a security requirement.

2. On September 1, 1988, TIA filed a petition requesting that the Commission consider rules requiring that cordless telephones provide increased protection to the public switched telephone network from unintentional line seizure and dialing, and protection to the user from unintentional ringing. TIA recommended that this be achieved by requiring the use of a digital code word consisting of at least 256 code combinations. TIA requested that the rule state that where less than the full complement of 256 code combinations are made accessible to the user, or random and frequent automatic recoding is not provided by the manufacturer, means shall exist to, and the manufacturer must, very any non-user programmable combinations on a frequent basis.

3. All of the comments to the petition support the request. However, not all the comments supported the particular rule changes suggested in the TIA petition.

4. The petitioner and commenters submitted studies which demonstrated that there is a growing problem of harm to the public switched telephone network caused by cordless telephones which do not contain security provisions. The petitioner and commenters believe that rules are necessary because of recently collected data indicating that cordless telephones not equipped with security coding circuitry are generating random hook switch closures that are interpreted by the central office as dialing sequences. TIA submits that such cordless telephones are causing significant interference to many telephone company services, to customers with low telephone numbers, and the "911" Emergency Services Telephone System. Digital security coding appears to offer a satisfactory means for preventing this type of harm to the public switched telephone network.

5. One of the commenters requested that the Commission not only require digital security coding on cordless phones, but also specify that each of the 256 individual security codes be repeated only once in any consecutively produced 256 cordless telephones. Otherwise, the very real possibility exists that numerous cordless telephones with the same security code will be produced one after the other, with the almost inevitable result that customers will receive identical security codes in the same geographic area. Thus, there is a substantial probability that many of the same problems sought to be remedied by the suggested regulation will continue to be experienced.

6. The TIA proposal would require the use of a digital coded word which, when received by the base unit, allows the cordless telephone to engage the telephone network. We are proposing to amend Parts 15 and 68 of the Rules to require cordless telephones to contain provisions for protection to the public switched telephone network from unintentional line access and dialing. Specifically, we are proposing to adopt rules which require cordless telephones to incorporate protection circuitry which make use of a digital code word having a minimum of 256 possible combinations. In addition, manufacturers must provide for either automatic or user selected digital codes.

7. This is a non-restricted notice and comment rule making proceeding. *See* 1.1231 of the Commission's rules, 47 CFR 1.1231 for rules governing permissible *ex parte* contacts.

Initial Regulatory Flexibility Analysis

Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 603, the Commission's initial analysis is as follows:

I. Reason for Actions

Cordless telephones without digital coding appear to be causing significant interference to many telephone company services. In some cases, phone line seizures have nearly closed down central offices and are causing significant unnecessary interference to many telephone company services, particularly to customers with low telephone numbers and to the "911" Emergency Services Telephone System.

II. Objective.

The objective of the proposed rules is to reduce the amount of harm which is being caused by cordless telephones to the public switched telephone network and the "911" Emergency Services Telephone system.

III. Legal Basis

Action is proposed in accordance with sections 4(i), 302, 303(e), 303(f) and 303(r) of the Communications Act of 1934, as amended.

IV. Description, Potential Impact and Number of Small Entities Affected

The proposed changes in the regulations would affect a number of entities both large and small. An estimate of the number of such parties affected is 50 or less. The cost to the manufacturers to comply with the proposed coding requirement is estimated to be $3–6 per telephone, depending on the manufacturer.

V. Recording, Record Keeping and Other Compliance Requirements

No changes in record keeping requirements are proposed. However, there may be an increase in the number of measurements performed on each cordless telephone in preparation for filing of an equipment authorization.

VI. Federal Rules Which Overlap, Duplicate or Conflict With This Rule

None.

VII. Any Significant Alternative Minimizing Impact on Small Entities and Consistent With Stated Objectives

None.

Comments: Pursuant to applicable procedures set forth in § 1.415 and § 1.419 of the Commission's rules, 47 CFR 1.415 and 1.419, interested parties may file comments on or before March 13, 1990, reply comments on or before April 12, 1990. All relevent and timely comments will be considered by the commission before final action is taken in this proceeding.

List of Subjects

47 CFR Part 15

Communications equipment, Radio, Telephone.

47 CFR Part 68

Communications equipment, Telephone.

Rule Changes

A. Title 47 of the Code of Federal Regulations, part 15 is proposed to be amended to read as follows:

1. The authority citation for part 15 continues to read as follows:

Authority: Sections 4, 302, 303, 304, and 307 of the Communications Act of 1934, as amended, 47 U.S.C. sections 154, 302, 303, 304, and 307.

2. A new § 15.214 is added, prior to the heading "Radiated Emission Limits, Additional Provisions", to read as follows:

§ 15.214 Cordless telephones.

Cordless telephones must incorporate circuitry which makes use of a digital code word in the dialing function to provide protection against unintentional access to the public switched network by the base unit and unintentional ringing by the handset. The dialing/ringing function shall operate such that each access of the telephone network or ringing of the handset is preceded by the transmission of a code word. Access to the telephone network is to occur only if the code word transmitted by the handset matches the code word set in the base unit. Similarly, ringing of the handset is to occur only if the code word transmitted by the base unit matches the code word set in the handset. This protection code system is to operate in accordance with the following provisions.

(a) There must be provision for at least 256 possible discrete digital codes.

(b) Manufacturers must use one of the following approaches for facilitating variation in the geographic distribution of individual security codes:

(1) Provide a means for the user to readily select from among at least 256 possible discrete digital codes.

(2) Provide a means for automatically selecting a different code from among at least 256 possible digital codes.

(3) It is permissible to provide capability for both use and automatic selection of codes provided that each of these modes enables selection from at least 256 possible discrete digital codes.

(c) A statement of the means and procedures used to achieve the required protection shall be provided in any application for equipment authorization of a cordless telephone.

(d) The provisions of this section do not apply to cordless telephones manufactured or imported before (one year after effective date) and complying with all the provisions of § 15.233.

B. Title 47 of the Code of Federal Regulations, part 68 is proposed to be amended to read as follows:

1. The authority citation for part 68 continues to read as follows:

Authority: Secs. 4, 201, 202, 203, 204, 205, 208, 215, 218, 313, 314, 403, 404, 410, 602, 48 Stat. as amended, 1066, 1070, 1071, 1072, 1073, 1076, 1077, 1087, 1094, 1098, 1102; 47 U.S.C. 154, 201, 202, 203, 204, 205, 208, 215, 218, 313, 403, 404, 410, 602, unless otherwise noted.

2. Section 68.200 is amended by adding a new paragraph (k), to read as follows:

§ 68.200 Application for equipment registration.

* * * * *

(k) Any application for registration of a cordless telephone operating under the provisions of part 15 of this chapter, shall be accompanied by a statement indicating that the device contains appropriate provision for protection of the public switched telephone network, pursuant to the requirements in § 15.214.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 90-399 Filed 1-9-90; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 89-592, RM-7078]

Radio Broadcasting Services; Cedar Falls, IA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition by Denise Neubauer seeking the allotment of Channel 253C3 to Cedar Falls, Iowa, as the community's first local FM service. Channel 253C3 can be allotted to Cedar Falls in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction. The coordinates for this allotment are North Latitude 42-31-30 and West Longitude 92-27-06.

DATES: Comments must be filed on or before February 23, 1990, and reply comments on or before March 12, 1990.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Denise Neubauer, 1078 South Gale Road, Davison, Michigan 48423 (Petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 89-592, adopted December 7, 1989, and released January 2, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

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

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

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Karl A. Kensinger,

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

[FR Doc. 90-495 Filed 1-9-90; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 89-595, RM-7042; RM-7094]

Radio Broadcasting Services; Clarinda, IA, Maryville, MO, Omaha, Plattsmouth and Fairbury, NB

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on two inter-related petitions. Nodaway Broadcasting Corp., licensee of Station KNIM–FM, requests the substitution of Channel 257C3 for Channel 257A at Maryville, Missouri, and the modification of its license accordingly. Diane N. Landen, permittee of a new FM station on Channel 290A at Omaha, Nebraska, requests the substitution of Channel 290C2 for Channel 290A and the modification of her construction permit to specify the higher powered channel. Lander further requests the following substitutions: (1) Channel 295A for unoccupied but applied for Channel 293A at Plattsmouth, Nebraska; (2) Channel 257C2 for Channel 291C2 at Clarinda, Iowa, and the modification of Station KMA–FM's license accordingly; (3) Channel 258C1 for Channel 257C1 at Fairbury, Nebraska, and the modification of Station KUTT's license accordingly; and (4) Channel 246C3 for Channel 257A at Maryville, Missouri, and the modification of Station KNIM–FM's license accordingly. In accordance with Section 1.420, we will not accept competing expressions of interest in use of Channel 290C2 at Omaha. Nodaway's license for Station KNIM–FM also can be modified to non-adjacent Channel 246C3 at Maryville since Channel 291C3 can be allotted as an additional equivalent class channel for use by other interested parties.

DATES: Comments must be filed on or before February 23, 1990, and reply comments on or before March 12, 1990.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Steve Michelson, President, Nodaway Broadcasting Corp., Box 278, Maryville, Missouri 64468 (Petitioner for Maryville, Missouri); Dennis P. Corbett, Esq., Stephen D. Baruch, Esq., Leventhal, Senter & Lerman, 2000 K Street NW., Suite 600, Washington, D.C. 20006–1809 (Counsel to Landen).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making and Orders to Show Cause, MM Docket No. 89–595, adopted December 7, 1989, and released January 2, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

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

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

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

Channel 290C2 can be allotted to Omaha, Nebraska, with a site restriction of 24.8 kilometers (15.4 miles) southeast to accommodate petitioner's desired transmitter site, at coordinates North Latitude 41–08–39 and West Longitude 95–46–38. Channel 246C3 can be allotted to Maryville, Missouri, and can be used at Station KNIM–FM's present transmitter site, at coordinates 40–19–41 and 94–52–31. Channel 258C1 can be allotted to Fairbury, Nebraska, with a site restriction of 15.9 kilometers (9.9 miles) northeast to avoid a short-spacing to Station KHAZ, Channel 258C1, Hays, Kansas, and avoid a conflict with the proposed allotment of Channel 257C2 at Clarinda, Iowa, at coordinates 40–14–41 and 97–03–16. Channel 295A can be allotted to Plattsmouth, Nebraska, with a site restriction of 5.1 kilometers (3.2 miles) east to avoid a short-spacing to Stations KTPK, Channel 295C, Topeka, Kansas, and KEZG, Channel 297C1, Lincoln, Nebraska, at coordinates 41–01–28 and 95–49–34. Channel 257C2 can be allotted to Clarinda, Iowa, and can be used at Station KMA–FM's present transmitter site, at coordinates 40–33–12 and 95–07–18.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Karl A. Kensinger,

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

[FR Doc. 90–496 Filed 1–9–90; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 89–594; RM–7142]

Radio Broadcasting Services; Harrisburg, NC

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition by York David Anthony seeking the allotment of Channel 224A to Harrisburg, North Carolina, as the community's first local FM service. Channel 224A can be allotted to Harrisburg in compliance with the commission's minimum distance separation requirements with a site restriction of 4.3 kilometers (2.7 miles) northwest to avoid a short-spacing to Station WKRR, Channel 222C, Asheboro, North Carolina, and Station WZNS channel 225C, Dillon, South Carolina. The coordinates for this allotment are North Latitude 35–20–28 and West Longitude 80–41–30.

DATES: Comments must be filed on or before February 23, 1990, and reply comments on or before March 12, 1990.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: York David Anthony, 2613 Craig Avenue, Concord, North Carolina 28025–4107 (Petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 89–594, adopted December 7, 1989, and released January 2, 1990. The full text of this Commission decision is available for inspection and copying during normal business ours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

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

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

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Karl A. Kensinger,

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

[FR Doc. 90-497 Filed 1-9-90; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 89-593, RM-7069]

Radio Broadcasting Services; Piketon, OH

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition by Ohio Kentucky Radio Company seeking the allotment of Channel 261A to Piketon, Ohio, as its first local FM service. Channel 261A can be allotted to Piketon in compliance with the Commission's minimum distance separation requirements without a site restriction. The coordinates for this allotment are North Latitude 39-04-00 and West Longitude 83-00-42. Canadian concurrence is required since Piketon is located within 320 kilometers of the U.S.-Canadian border.

DATES: Comments must be filed on or before February 23, 1990, and reply comments on or before March 12, 1990.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: James P. Wagner, Ohio Kentucky Radio Company, P.O. Box 14083, Covington, Kentucky 41014 (Petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 89-593, adopted December 7, 1989, and released January 2, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

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

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

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Karl A. Kensinger,

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

[FR Doc. 90-498 Filed 1-9-90; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 89-591, RM-7079]

Radio Broadcasting Services; Cottage Grove, OR

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition by Susan M. Ciborosky seeking the allotment of Channel 288C1 to Cottage Grove, Oregon, as the community's first local FM service. Channel 288C1 can be allotted to Cottage Grove in compliance with the Commission's minimum distance separation requirements with a site restriction of 17.5 kilometers (10.9 miles) southwest to avoid a short-spacing to Stations KWBX, Channel 289C2, Bend, Oregon, and Station KFAT, Channel 291C, Corvallis, Oregon. The coordinates for this allotment are North Latitude 43-42-04 and West Longitude 123-13-34.

DATES: Comments must be filed on or before February 23, 1990, and reply comments on or before March 12, 1990.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Susan M. Ciborosky, 1608 Highland Avenue, Hubertus, Wisconsin 53033 (Petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 89-591, adopted December 7, 1989, and released January 2, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

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

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

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Karl A. Kensinger,

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

[FR Doc. 90-499 Filed 1-9-90; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 89-590-7071]

Radio Broadcasting Services; Columbia and Sumter, SC

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition by Gamecock City Broadcasting, Inc., seeking the reallotment of Channel 267C from Sumter to Columbia, South Carolina, and the modification of its license for Station WWDM accordingly. Channel 267C can be allotted to Columbia in compliance with the Commission's minimum distance separation requirements and can be used at Station WBPR's present transmitter site. The coordinates for this allotment are North Latitude 34–03–04 and West Longitude 80–40–55. In accordance with § 1.420(i), we will not accept competing expressions of interest in use of the channel at Columbia.

DATES: Comments must be filed on or before February 23, 1990, and reply comments on or before March 12, 1990.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Richard F. Swift, Esq., Tierney & Swift, 1200—18th Street NW., Suite 210, Washington, DC 20036 (Counsel to petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 89–590, adopted December 7, 1989, and released January 2, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Docket Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

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

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

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Karl A. Kensinger,

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

[FR Doc. 90–500 Filed 1–9–90; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 89–603; RM–7076]

Radio Broadcasting Services; Celina and Watertown, TN

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by William O. Barry proposing the reallotment of vacant and unapplied for Channel 229A from Celina, Tennessee, to Watertown, Tennessee, as that community's first local FM service. A site restriction of 3.9 kilometers (2.4 miles) northeast of the city is required for the allotment of Channel 229A at Watertown. The proposed coordinates are 36–07–09 and 86–06–02.

DATES: Comments must be filed on or before February 26, 1990, and reply comments on or before March 13, 1990.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant, as follows: William O. Barry, 429 West Spring Street, Lebanon, TN 37087 (Petitioner).

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 89–603, adopted December 12, 1989, and released January 3, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

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

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

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Karl A. Kensinger,

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

[FR Doc. 90–501 Filed 1–9–90; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 89–604; RM–7049]

Radio Broadcasting Services; Gordonsville, VA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Radio Virginia Limited Partnership, licensee of Station WVJZ(FM), Channel 255A, Orange, Virginia, proposing the change of community of license for Channel 255A at Orange to Gordonsville, and the modification of its station's license to specify Channel 255A at Gordonsville. The relocation of Station WVJZ(FM)'s present transmitter site to a site 0.6 kilometers (0.4 miles) southeast of Gordonsville is required. The coordinates are 38–08–15 and 78–11–01.

DATES: Comments must be filed on or before February 26, 1990, and reply comments on or before March 13, 1990.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant, as follows: Erwin G. Krasnow, Esquire, Verner, Liipfert, Bernhard, McPherson and Hand, Chartered, 901 15th Street NW., Suite 700, Washington, DC 20005–2301 (Counsel for petitioner).

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 89–604, adopted December 12, 1989, and released January 3, 1990. The full text of this Commission decision is available

for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

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

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

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Karl A. Kensinger,

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

[FR Doc. 90–504 Filed 1–9–90; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 89–602; RM–7154]

Radio Broadcasting Services; Vergennes, VT

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Thomas M. Pancoast seeking the allotment of Channel 244A to Vergennes, Vermont, as that community's second local FM service. The proposal complies with § 73.207 of the Commission's Rules at the city reference coordinates which are 44–10–00 and 73–15–18.

DATES: Comments must be filed on or before February 26, 1990, and reply comments on or before March 13, 1990.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant, as follows: Edward W. Hummers, Jr., Esquire, Julie E. Rones, Esquire, Fletcher, Heald & Hildreth, 1225 Connecticut Avenue, NW., Suite 400, Washington, DC 20036 (Counsel for petitioner).

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 89–602, adopted December 12, 1989, and released January 3, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

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

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

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Karl A. Kensinger,

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

[FR Doc. 90–502 Filed 1–9–90; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 89–601; RM–7072]

Radio Broadcasting Services; Chase City, VA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Patricia B. Wagstaff proposing the substitution of Channel 260C3 for Channel 260A at Chase City, Virginia, and the modification of her construction permit for Channel 260A at Chase City to specify operation on the higher powered channel. The construction permit's present transmitter site can be used to accomplish the proposed upgrade. The coordinates are 36–48–13 and 78–21–02.

DATES: Comments must be filed on or before February 26, 1990, and reply comments on or before March 13, 1990.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant, as follows: Donald E. Martin, Esq., Spencer W. Weisbroth, Esq., Donald E. Martin, P.C., Suite 200, 2000 L Street NW., Washington, DC 20036 (Counsel for petitioner).

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 89–601, adopted December 12, 1989, and released January 3, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

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

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

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Karl A. Kensinger,

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

[FR Doc. 90–503 Filed 1–9–90; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018-AB31

Endangered and Threatened Wildlife and Plants; Public Hearing on the Proposed Reclassification of the Aleutian Canada Goose From Endangered to Threatened

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; notice of public hearing.

SUMMARY: The U.S. Fish and Wildlife Service (Service) gives notice that a public hearing will be held for the proposed reclassification of the Aleutian Canada goose (*Branta canadensis leucopareia*) from endangered to threatended. The Aleutian Canada goose is known to nest on seven Alaska islands and winters along the Oregon coast, northern California coast, and the California Central valley. The public hearing will allow comments on this proposal to be submitted from all interested parties.

DATES: The public hearing will be held from 7:00 to 9:00 p.m. on Wednesday, January 17, 1990.

ADDRESSES: The public hearing will be held at the San Francisco Bay National Wildlife Refuge, 1 Marshlands Road, Fremont, California 94536. Written comments and materials will be accepted until January 29, 1990, and should be sent to Regional Director, Attention: Endangered Species, U.S. Fish and Wildlife Service, 1011 East Tudor Road, Anchorage, Alaska 99503.

FOR FURTHER INFORMATION CONTACT: Dr. Ronald L. Garrett, Endangered Species Coordinator, at the above address (907–786–3505 or FTS 786–3505).

SUPPLEMENTARY INFORMATION:

Background

The Service proposed to reclassify the Aleutian Canada goose from endangered to threatened status on September 29, 1989 (54 FR 40142). The species is threatened with eradication of insular breeding populations by introduced foxes. Recovery efforts over the past 14 years has yielded an increase from 790 birds in 1975 to about 5,800 birds in fall 1988. Annual increases in numbers of Aleutian Canada geese on the California wintering grounds have averaged 16 percent. While fox control in Alaska made former breeding islands once again suitable for nesting geese, Canada goose closure areas in key California and Oregon wintering habitat have been primarily responsible in allowing the Aleutian Canada goose population to dramatically increase in size.

Since publication of the proposed rulemaking, some parties have requested an extension of the comment period to allow further public input. The Service finds that extending the public comment period will benefit the rulemaking process and, hence, issues this notice. Written comments may be submitted until January 29, 1990, to the Service offices in the **ADDRESSES** section.

Author

This notice was prepared by Dr. Jay F. Watson, Chief, Division of Technical Services, U.S. Fish and Wildlife Service, 1002 NE. Holladay Street, Portland, Oregon 97232–4181 (telephone (503) 231–6154 or FTS 429–6154).

Authority

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

List of Subjects in 50 CFR Part 17

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

Dated: December 26, 1989.

Marvin L. Plenert,

Regional Director.

[FR Doc. 90–685 Filed 1–9–90; 8:45 am]

BILLING CODE 4310–55–M

Notices

Federal Register
Vol. 55, No. 7
Wednesday, January 10, 1990

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

Food and Nutrition Service

Food Stamp Program; Maximum Allotments for the 48 States and DC and Income Eligibility Standards and Deductions for the 48 States and DC, Alaska, Hawaii, Guam and the Virgin Islands

AGENCY: Food and Nutrition Service, USDA.

ACTION: General notice.

SUMMARY: The Department of Agriculture is updating: (1) The maximum allotment levels, which determine the maximum amount of food stamps which participating households receive, (2) the limits on gross and net income which certain households may have and still be eligible for food stamps, and (3) the standard deduction and the maximum amounts for the excess shelter expense deduction available to certain households. These adjustments, required by law, take into account changes in the cost of living and statutory adjustments.

EFFECTIVE DATE: October 1, 1989.

FOR FURTHER INFORMATION CONTACT: Judith M. Seymour, Supervisor, Eligibility and Certification Regulations Section, Certification Policy Branch, Program Development Division, Food Stamp Program, Food and Nutrition Service, USDA, Alexandria, Virginia 22302, (703) 756–3496. Copies of the Regulatory Impact Analysis, which is summarized in this preamble, are also available from Ms. Seymour.

SUPPLEMENTARY INFORMATION

Publication

As required by law, State agencies implemented this action on October 1, 1989 based on advance notice of the new amounts. Based on regulations published at 47 FR 46485–46487 (October 19, 1982) annual statutory adjustments to the maximum allotment levels, income eligibility standards, and deductions are issued by General Notices published in the **Federal Register** and not through rulemaking proceedings.

Classification

Executive Order 12291. This action has been reviewed under Executive Order 12291 and Secretary's Memorandum 1512–1. The Department considers it a major action because it will increase the Food Stamp Program's cost by more than $100 million. It will not result in a major increase in costs or prices except to the Federal Government, nor will it affect competition, productivity, employment, investment or innovation.

Executive Order 12372. The Food Stamp Program is listed in the Catalog of Federal Domestic Assistance under No. 10.551. For the reasons set forth in the Final rule related Notice(s) to 7 CFR part 3015, subpart V (Cite 48 FR 29115, June 24, 1983; or 48 FR 54317, December 1, 1983, as appropriate, and any subsequent notices that may apply), this program is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

Regulatory Flexibility Act. G. Scott Dunn, Acting Administrator of the Food and Nutrition Service, has certified that this action will not have a significant economic impact on a substantial number of small entities. The action will increase the amount of money spent on food through food stamps. However, this money will be distributed among the nation's food vendors, so the effect on any one vendor will not be significant.

Paperwork Reduction Act. This action does not contain reporting or recordkeeping requirements subject to approval by the Office of Management and Budget (OMB).

Regulatory Impact Analysis

Need for Action. This action is required by sections 3(o), 5(c) and 5(e) of the Food Stamp Act of 1977, as amended. Section 3(o) requires that the October 1, 1989 change in food stamp allotments be based upon 102.05 percent of the June 1989 cost of the Thrifty Food Plan (TFP) for a family of four persons consisting of a man and woman ages 20–50 and children 6–8 and 9–11. Adjustments are made to take into account household size, economies of scale and a requirement to round the final results down to the nearest dollar increments. Section 5(c) requires that the income eligibility standards for the program be adjusted on October 1, 1989 based on changes in the Federal income poverty guidelines. Section 5(e) requires that the standard deductions and the maximum amounts for the excess shelter expense deductions be adjusted on October 1, 1989 to the nearest lower dollar increments to reflect certain changes for the 12 months ending June 30, 1989.

Benefits. This action increases maximum food stamp allotments, income eligibility standards, and deductions based on the changing cost of living.

Costs. It is estimated that this action will increase the cost of the Food Stamp Program by approximately $1.9 billion in Fiscal Year 1990.

Background

Income Eligibility Standards. The eligibility of households for the Food Stamp Program, except those in which all members are receiving public assistance (PA) or supplemental security income benefits (SSI), is determined by comparing their incomes to the appropriate income eligibility standards (limits). Households containing an elderly or disabled member must have net incomes below the net income limits. Households which do not contain an elderly or disabled member must have net incomes below the net income limits and gross incomes below the gross income limits. Households in which all members are receiving PA or SSI are categorically eligible; their incomes do not have to be below the income limits.

In addition, elderly individuals (and their spouses) who are unable to prepare meals because of certain disabilities, may be considered separate households, even if they are living and eating with another household. The Act limits separate household status to those persons who meet both of the following requirements:

(1) Their own income may not exceed the net income eligibility standards, and

(2) The income of those with whom they reside may not exceed 165 percent of the poverty line.

The net and gross income limits are derived from the Federal income poverty guidelines. The net income limit is 100

percent of the guidelines; the gross income limit is 130 percent of the guidelines. The guidelines are updated annually. Based on that update, the Food Stamp Program's income eligibility standards are updated annually. The effective date of October 1 is required by the Food Stamp Act of 1977, as amended.

The revised income eligibility standards are as follows:

FOOD STAMP PROGRAM

Household size	48 States [1]	Alaska	Hawaii
Net monthly income eligibility standards (100 percent of poverty level):			
1	$499	$624	$573
2	669	836	769
3	839	1,049	965
4	1,009	1,261	1,160
5	1,179	1,474	1,356
6	1,349	1,686	1,552
7	1,519	1,899	1,748
8	1,689	2,111	1,944
Each additional member	+170	+213	+196
Gross monthly income eligibility standards (130 percent of poverty level):			
1	$648	$811	$745
2	869	1,087	999
3	1,090	1,363	1,254
4	1,311	1,640	1,508
5	1,532	1,916	1,763
6	1,753	2,192	2,018
7	1,974	2,468	2,272
8	2,195	2,745	2,527
Each additional member	+221	+277	+255
Gross monthly income eligibility standards for households where elderly/disabled are a separate household (165 percent of poverty level):			
1	$823	$1,029	$945
2	1,103	1,380	1,268
3	1,384	1,730	1,591
4	1,664	2,081	1,914
5	1,945	2,431	2,238
6	2,225	2,782	2,561
7	2,506	3,133	2,884
8	2,786	3,483	3,207
Each additional member	+281	+351	+324

[1] Includes District of Columbia, Guam and the Virgin Islands.

Thrifty Food Plan (TFP) and Allotments. The TFP is a plan for the consumption of foods of different types (food groups) that families might use to provide nutritious meals and snacks for family members. The plan suggests amounts of food for men, women, and children of different ages, and it meets dietary standards. The cost of the TFP is adjusted to reflect changes in the costs of the food groups.

The TFP is also the basis for establishing food stamp allotments. Food stamp allotments are adjusted periodically to reflect changes in food costs. Section 3(o) of the Food Stamp Act of 1977, as amended, provides for an adjustment on October 1, 1989, based upon 102.05 percent of the June 1989 cost of the TFP for a family of four persons consisting of a man and woman ages 20–50 and children 6–8 and 9–11. In June 1989, the cost of the TFP was $324.60 in the 48 States and DC.

To obtain the maximum food stamp benefit for each household size, June 1989 TFP costs for the four-person household were increased by 2.05 percent, divided by four, multiplied by the appropriate household size and economy of scale factor, and the final result was rounded down to the nearest dollar. The maximum benefit, or allotment, is paid to households which have no net income. For households which have some income, the allotment is determined by reducing the maximum allotment for the household's size by 30 percent of the household's net income.

The following table shows the new allotments for the 48 States and DC.

ALLOTMENT AMOUNTS [1]—OCTOBER 1989, AS ADJUSTED

Household size	48 States and DC
1	$99
2	182
3	260
4	331
5	393
6	472
7	521
8	596
Each additional person	+75

[1] Adjusted to reflect the cost of the TFP in June, adjustments for each household size, economies of scale, a 2.05 percent increase in the TFP and rounding.

Deductions. Food stamp benefits are calculated on the basis of an individual household's net income. Deductions serve to lower household net income and thus to increase household benefits. As household net income decreases, its food stamp benefits increase.

The standard deduction is available to all households. The excess shelter expense deduction is available to households with extremely high shelter costs. There is a maximum amount for the excess shelter deduction for households with no elderly or disabled members but no maximum for households with elderly or disabled members. The standard deduction and the maximum amount for the excess shelter expense deduction for households with no elderly or disabled members are being adjusted by this Notice.

Adjustment of the Standard Deduction

Section 5(e) of the Food Stamp Act of 1977, as amended, provides that in computing household income, households shall be allowed a standard deduction. The Act also requires that this deduction be adjusted periodically. This deduction was last adjusted effective October 1, 1988. The Act requires that the adjustment in the level of the standard deduction shall take into account changes in the Consumer Price Index for All Urban Consumers (CPI–U) published by the Bureau of Labor Statistics (BLS) for items other than food. The adjustments are, by law, rounded to the nearest lower dollar. There are separate standard deductions for the 48 States and DC, Alaska, Hawaii, Guam and the Virgin Islands.

The following table shows the deductions resulting from the last adjustment, the unrounded results of this adjustment, and the new deduction amounts that went into effect on October 1, 1989.

STANDARD DEDUCTIONS FOR ALL HOUSEHOLDS

	Previous deductions (effective 10–1–88)	New unrounded numbers (10–1–89)	Standard deductions (effective 10–1–89)
48 States and DC	$106	$112.02	$112
Alaska	182	191.07	191
Hawaii	150	158.15	158
Guam	213	224.01	224
Virgin Islands	94	98.83	98

Adjustment of the Shelter Deduction

Section 5(e) of the Food Stamp Act of 1977, as amended, also provides that in computing household income, households shall be allowed a deduction for certain excess shelter expenses. There is a maximum amount for the excess shelter expense deduction, unless the household has an elderly or disabled member in which case there is no maximum. The maximum amount for the excess shelter expense deduction is adjusted annually each October 1 based on changes in the shelter, fuel and utilities components of housing costs in the CPI–U published by BLS. The adjustments are, by law, rounded to the nearest lower dollar. There are separate shelter deductions for the 48 States and

DC, Alaska, Hawaii, Guam, and the Virgin Islands.

The following table shows the shelter deductions resulting from the last adjustment, the unrounded results of this adjustment, and the new maximum excess shelter deductions that went into effect October 1, 1989.

SHELTER DEDUCTIONS FOR HOUSEHOLDS WITHOUT ELDERLY OR DISABLED MEMBERS

	Previous shelter deductions (effective 10-1-88)	New unrounded numbers (10-1-89)	Shelter deductions (effective 10-1-89)
48 States and DC	$170	$177.61	$177
Alaska	296	308.64	308
Hawaii	243	253.41	253
Guam	206	215.51	215
Virgin Islands	125	131.04	131

Authority: 7 U.S.C. 2011-2029

Dated: January 4, 1990.

Catherine Bertini,

Assistant Secretary for Food and Consumer Services.

[FR Doc. 90-552 Filed 1-9-90; 8:45 am]

BILLING CODE 3410-30-M

Forest Service

Rocky Mountain Region; Environmental Impact Statement for Conundrum Creek Quarry, White River National Forest, Pitkin County, Colorado

AGENCY: Forest Service, USDA.

ACTION: Notice; Intent to Prepare an Environmental Impact Statement.

SUMMARY: The Forest Service will prepare an environmental impact statement on a proposal to reopen a marble quarry within the Maroon Bells-Snowmass Wilderness on the Aspen Ranger District.

DATE: Written comments concerning the scope of the analysis should be received on or before March 1, 1990.

ADDRESS: Send written comments to Gretchen Merrill, District Ranger, Aspen Ranger District, 806 West Hallam Street, Aspen, Colorado 81611.

FOR FURTHER INFORMATION CONTACT: Loren Kroenke, Interdisciplinary Forester, Aspen Ranger District, 806 West Hallam Street, Aspen, Colorado 81611. Phone: (303) 925-3445.

SUPPLEMENTARY INFORMATION: The Forest Service has received a mining plan to reopen a marble quarry last operated about 1912. This quarry is a privately owned mineral estate located within the boundaries of the Maroon Bells-Snowmass Wilderness. The United States owns the surface estate.

The mining plan was conditionally approved by the Colorado Mined Land Reclamation Board (CMLRB), and public hearings have been scheduled by the Board. The Forest Service has worked with the proponent-owner, the State of Colorado, Pitkin County, and the public on various mining activities since 1985. In 1987, in response to a permit request from the proponent-owner, the Forest Service authorized access to the private property by use of the Conundrum Creek Road for exploration activities which occurred in the summer of 1988.

Research shows that Conundrum Creek Road is under the jurisdiction of Pitkin County, and use of the Road is a matter regulated by the County. The United States owns, and the Forest Service manages as wilderness, the subservient surface estate. The mineral estate is private property. According to the 1964 Wilderness Act, valid rights outstanding at the time of passage of the Act were not eliminated by the wilderness designation. Under State law, surface disturbance of the mineral estate must be "reasonable" and associated with mining.

An analysis will be made to identify the environmental impacts of the proposed mining plan. A range of mitigation and reclamation measures appropriate under the Wilderness Act and reasonable under State law and which can be negotiated with the proponent will be developed. Alternatives identified thus far include:

1. No Action. The owner will be able to develop the quarry within the limits of the approvals of the CMLRB and other permitting agencies.
2. Deny use of the surface.
3. Miner's (Proponent's) Proposal. The miner will voluntarily implement any mitigation measures he believes appropriate beyond those required by permitting agencies.
4. Forest Service negotiates reclamation measures and rehabilitation measures with the proponent.
5. Acquisition of mineral and timber interest by the U.S.
6. Proponent-Owner and the Forest Service negotiate a special use permit. The proponent-owner willingly accepts special use permittee status under 36 CFR 251.5.

The mining activity approved by the CMLRB is limited in scope and size. If development beyond the geographic area of the intensity approved in the mining plan is proposed, it will be necessary for the miner to seek additional permits from the appropriate agencies. Because of this, the Forest Service intends to limit its analysis to the plan before it. Development involving other areas is extremely speculative and cannot reasonably be foreseen as a connected action to the current proposal.

The analysis is expected to take about six months. The draft environmental impact statement is expected to be available for public review in April 1990. The final environmental impact statement is scheduled to be completed in June 1990.

A scoping plan is being prepared by the Forest Service. The public will subsequently be notified how the scoping process will be conducted. The comment period on the draft environmental impact statement will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the Federal Register.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement and the merits of the alternatives formulated and discussed in the statement. (Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.).

The Forest Service believes it is important to give reviewers notice at this early stage of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC, 435, U.S. 519, 553 (1978).* Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in the proposed action participate by the close of the 45-day

comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

Gary Cargill, Regional Forester, Rocky Mountain Region, 11177 West 8th Avenue, P.O. Box 25127, Lakewood, CO 80225 is the responsible official.

Dated: January 4, 1990.

Gary E. Cargill,

Regional Forester.

[FR Doc. 90-572 Filed 1-9-90; 8:45 am]

BILLING CODE 3410-11-M

National Forest System Law Enforcement Advisory Council

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The National Forest System Law Enforcement Advisory Council will hold a meeting in Tampa, Florida, February 13 and 14, 1990 at the Rocky Point Island Days Inn. At the last meeting, council members agreed on two topics for discussion at the February meeting—cooperative law enforcement agreements between the Forest Service and State and local law enforcement agencies and standards regarding training of law enforcement personnel. The meeting is open to public attendance; however, participation is limited to Forest Service personnel and Council members. The public is invited to submit written suggestions or comments on any issues or concerns that the Council should consider at this or future meetings.

DATES: The meeting will be held February 13 and 14, 1990. The deadline for submitting written suggestions for discussion topics at the meeting is February 2, 1990.

ADDRESSES: The meeting will be held at the Days Inn, Rocky Point Island, 7627 Courtney Campbell Causeway, Tampa, Florida 33607, (813-281-0000). Send written suggestions or comments to: Deputy Chief for Administration (5300), Forest Service, USDA, P.O. Box 96090, Washington, DC 20090-6090.

FOR FURTHER INFORMATION CONTACT: Susan Sea, Fiscal and Public Safety Staff, (703) 235-3527.

Dated: January 4, 1990.

William L. Rice,

Deputy Chief, Administration.

[FR Doc. 90-586 Filed 1-9-90; 8:45 am]

BILLING CODE 3410-11-M

The Winding Stair Tourism and Recreation Advisory Council

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a meeting of the Winding Stair Tourism and Recreation Advisory Council. The meeting will be open to the public. This notice also describes the functions of the Council. Notice of this meeting is required under the National Advisory Committee Act.

DATE: January 30, 1990, 7:00 p.m.

ADDRESS: The meeting location is the Kiamichi Area Vocational Technical School, Highway 63 A, west of Talihina, Oklahoma. Send written statements to Forest Supervisor, Ouachita National Forest, P.O. Box 1270, Hot Springs, AR 71902.

FOR FURTHER INFORMATION CONTACT: Robert LaVal, (501)-321-5317.

SUPPLEMENTARY INFORMATION: The Winding Stair Tourism and Recreation Advisory Council was created by the Winding Stair Mountain National Recreation and Wilderness Area Act (16 U.S.C. 460vv-13). The Council, comprised of 16 members, appointed by the Secretary of Agriculture, will meet periodically. The purpose of this Council is advisory in nature. The Act designates the Secretary to appoint a special advisory group from the local area in which the Ouachita National Forest is located to assist in the preparation of the tourism and recreation section of the Ouachita National Forest Land and Resource Management Plan amendment as required under subsections 15(b) and (c). Subsection 15 (b) provides for the promotion of tourism and recreation in ways consistent with the purposes for which the wilderness areas, the botanical areas, the National Scenic Area are designated.

Glen Sullivan, Director of the Oklahoma Tourism and Recreation Department will chair the meeting. Representatives of the Forest Service will attend from the Department of Agriculture including the designated officer of the Federal Government. The agenda for this meeting will be to: hear subcommittee reports from the following subcommittees: (1) Master Plan, (2) Lodge Feasibility, (3) Wilderness, (4) Physical Facilities, (5) Equestrian, (6) Signing, (7) Scenic Stops, (8) Hiking-trails-ORV, (9) Hang-gliding. Plans will be made for the next meeting and new business will be discussed.

Dated: December 28, 1990.

John M. Curran,

Forest Supervisor.

[FR Doc. 90-510 Filed 1-9-90; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF COMMERCE

Bureau of the Census

Motor Freight Transportation and Warehousing Survey

AGENCY: Bureau of the Census, Commerce.

ACTION: Notice of determination.

Determination: In accordance with title 13, United States Code, Sections 131, 182, 224 and 225, I have determined that 1989 operating revenues and expenses are needed for the for-hire trucking and warehousing industries to provide a sound statistical basis for the formation of policy by various governmental agencies and that these data also apply to a variety of public and business needs. These data are not publicly available from nongovernmental or other governmental sources.

FOR FURTHER INFORMATION CONTACT: Howard N. Hamilton, Chief, Business Division on (301) 763-7564.

SUPPLEMENTARY INFORMATION: The Census Bureau is authorized to take surveys necessary to furnish current data on subjects covered by the major censuses authorized by title 13, United States Code. This survey will provide continuing and timely national statistical data on Freight Transportation and Warehousing services for the period between Economic Censuses. The next Economic Census will be conducted in 1992. The data collected in this survey will be within the general scope and nature of those inquiries covered in the Economic Censuses.

The Census Bureau will require a probability sample of trucking and warehousing firms in the United States (with payroll size determining the probability of selection) to report in the 1989 Motor Freight Transportation and Warehousing Survey. The sample will provide, with measurable reliability, national level statistics on operating revenues and expenses for these industries. We will furnish report forms to the firms covered by this survey and will require their submission within 30 days after receipt.

This survey has been submitted to the Office of Management and Budget, in accordance with the Paperwork

Reduction Act, Public Law 96–511, as amended. We will provide copies of the form upon written request to the Director, Bureau of the Census, Washington, DC 20233.

Conclusion:

Based upon the foregoing determination, I have directed that an annual survey be conducted for the purpose of collecting these data.

Dated: January 4, 1990.

Barbara Everitt Bryant,

Director, Bureau of the Census.

[FR Doc. 90–506 Filed 1–9–90; 8:45 am]

BILLING CODE 3510–07–M

[Docket No. 91202–9302]

Annual Survey of Retail Trade Data

AGENCY: Bureau of the Census, Commerce.

ACTION: Notice of determination.

Determination

In accordance with title 13, United States Code, sections 182, 224, and 225, I have determined that various government agencies need the 1989 annual retail trade data to provide a sound statistical basis for the formation of policy and that these data also serve a variety of public and business needs. This annual survey is a continuation of similar surveys that we have conducted each year since 1951 (except 1954). It provides, on a comparable classification basis, annual sales, purchases of merchandise, accounts receivable balances, and year end inventories for 1988 and 1989. These data are not available publicly on a timely basis from nongovernmental or other governmental sources.

FOR FURTHER INFORMATION CONTACT: Ron Piencykoski on (301) 763–5294.

SUPPLEMENTARY INFORMATION: The Census Bureau is authorized to take surveys necessary to furnish current data on the subjects covered by the major censuses authorized by Title 13, United States Code. This survey will provide continuing and timely national statistical data on retail trade for the period between Economic Censuses. The next Economic Census will be conducted in 1992. The data collected in this survey will be within the general scope and nature of those inquiries covered in the economic Census.

The Census Bureau will require a selected sample of firms operating retail establishments in the United States (with sale size determining the probability of selection) to report in the 1989 Annual Retail Trade statistics on the specified subjects. We will furnish report forms to the firms covered by this survey and will require their submissions within 30 days after receipt.

This survey has been submitted to the Office of Management and Budget, in accordance with the Paperwork Reduction Act, Public Law 96–511, as amended, and was cleared under OMB Control No. 0607–0013. We will privde copies of the form upon written request to the Director, Bureau of the Census, Washington, DC 20233.

Conclusion

Based upon the foregoing determination, I have directed that an annual survey be conducted for the purpose of collecting these data.

Dated: January 4, 1990.

Barbara Everitt Bryant,

Director, Bureau of the Census.

[FR Doc. 90–507 Filed 1–9–90; 8:45 am]

BILLING CODE 3510–07–M

National Oceanic and Atmospheric Administration

Marine Mammals; Application for Permit: Thomas R. Kieckhefer (P449)

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973 (16 U.S.C. 1531–1544), and the regulations governing endangered fish and wildlife permits (50 CFR parts 217–222).

1. Applicant: Thomas R. Kieckhefer, Moss Landing Marine Laboratories, P.O. Box 450, Moss Landing, California 95039–0450.

2. Type of Permit: Scientific Research.

3. Name and Number of Marine Mammals: humpback whales (*Megaptera Novaeangliae*), 500.

4. Type of Take: The applicant proposes to take up to 500 humpback whales for photo-identification and prey identification using several types of sampling methods such as zooplankton net, small purse seine and side scan sonar imaging. Fecal samples will be collected with a hand-held dip net. The objectives are to 1) identify humpback whale prey off the central and northern California coastline; 2) determine the depth and accessibility of prey; 3) relate the occurrence of prey to topographic features and other environmental factors; and 4) photographically identify whales by differences in their dorsal fin shapes and pigmentation patterns on the ventral surface of their flukes. The applicant states that this baseline study will provide an accurate assessment of the importance of the Gulf of the Farallones as a feeding ground for the northeast Pacific humpback whale population, and contribute to the protection and preservation of the Gulf's vast resources under future circumstances that may jeopardize its health.

5. Location and period of Activity: Gulf of the Farallones over a 3-year period.

Concurrent with the publication of this notice in the Federal Register, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, 1335 East West Hwy., Room 7324, Silver Spring, Maryland 20910 within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review by interested persons in the following offices:

Office of Protected Resources and Habitat Programs, National Marine Fisheries Service, 1335 East West Hwy., Suite 7324, Silver Spring, Maryland 20910;

Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731–7415.

Dated: January 3, 1990.

Nancy Foster,

Director, Office of Protected Resources and Habitat Programs, National Marine Fisheries Service.

[FR Doc. 90–547 Filed 1–9–90; 8:45 am]

BILLING CODE 3510–22–M

Marine Mammals: Modification of Permit: Southwest Fisheries Center (P77#10); Modification No. 2 to Permit No. 465

Notice is hereby given that pursuant to the provisions of § 216.33(d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), Scientific Research Permit No. 465 issued to the Southwest Fisheries Center, P.O. Box 271 La Jolla, California 92038, on April 23, 1984 (49 FR 19089) as modified on November 17, 1987 (52 FR 45219), is further modified as follows:

Section B.5 is replaced by:

5. This permit is valid with respect to the taking authorized here until December 31, 1990.

This modification becomes effective on December 31, 1989.

The Permit, as modified, and documentation pertaining to the modification are available for review in the following offices:

Office of Protected Resources and Habitat Programs, National Marine Fisheries Service, 1335 East West Highway, Room 7324, Silver Spring, Maryland 20910; and

Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731–7415.

Dated: January 3, 1990.

Nancy Foster,

Director, Office of Protected Resources and Habitat Programs, National Marine Fisheries Service.

[FR Doc. 90–546 Filed 1–9–90; 8:45 am]

BILLING CODE 3510–22–M

Marine Mammals; Permit Modifications; Theater of the Sea (P92 and P92B); Dolphin Research Center (P53B); Dolphins Plus, Inc. (P234 and P234A); Hyatt Regency Waikoloa Resort (P407)

Notice is hereby given that pursuant to the provisions of § 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Special Conditions on Swim-with-the-dolphin Programs that apply to public display permit Nos. 69 and 326 issued to Theater of the Sea, Inc., Islamorada, FL, No. 514 issued to Dolphin Research Center, Marathon, FL, Nos. 292 and 577 issued to Dolphins Plus, Inc., Key Largo, FL, No. 625 issued to Hyatt Regency Waikoloa Resort, Waikoloa, HA are modified by changing the expiration date of the authorizations from December 31, 1989 to April 30, 1990. Special Condition D.1. now reads as follows:

D.1. The Permit Holder is authorized to use dolphins in an experimental human/dolphin swim program until April 30, 1990. The National Marine Fisheries Service (NMFS) may revoke this authority before April 30, 1990, if this program is found to have an adverse effect on the health or well-being of the animals, if an ongoing review of public display permit authorities, procedures and criteria results in new regulations that disallow such programs, or if the terms of the following conditions are not being met.

On December 19, 1989, according to Procedures for Issuance of Permits and Modification, Suspension or Revocation Thereof, contained in 50 CFR 216.33(d), the permit holders were notified of our intention to modify these permits and given the opportunity to request a hearing within 10 days of notification. No hearings were requested and this modification became effective on January 1, 1990.

NMFS is reviewing public comments and testimony regarding the draft Environmental Impact Statement (EIS) on The Use of Marine Mammals in Swim-With-The-Dolphin Programs, published on November 1, 1989. A final EIS incorporating the final decision on the future of these programs is scheduled for publication by March 31, 1990.

Documents concerning the above modifications and permits, and other information regarding swim-with-the-dolphin programs, are available for inspection in the Office of Protected Resources and Habitat Programs, NMFS, Room 7324, 1335 East-West Highway, Silver Spring, Maryland.

Dated: January 3, 1990.

Nancy Foster,

Director, Office of Protected Resources and Habitat Programs, National Marine Fisheries Service.

[FR Doc. 90–550 Filed 1–9–90; 8:45 am]

BILLING CODE 3510–22–M

Marine Mammals; Permit Modification: Dr. Howard E. Winn (P12H); Modification No. 2 to Permit No. 501

Notice is hereby given that pursuant to the provisions of § 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), Scientific Research Permit No. 501 issued to Dr. Howard E. Winn, Professor of Oceanography and Zoology, The University of Rhode Island, Graduate School of Oceanography, Kingston, Rhode Island 02881, on July 12, 1985 (50 FR 29715), as modified on March 6, 1987 (52 FR 7007) is further modified as follows:

Section A. is changed to read:

1. The following cetaceans in the Atlantic Ocean from Nova Scotia to Florida may be taken by harassment during the course of scientific research as described in the application and modification letter dated December 1989:

a. Up to 550 right whales (*Eubalaena glacialis*)
b. Up to 200 fin whales (*Balaenoptera physalus*)
c. Up to 100 humpback whales (*Megaptera novaeangliae*)
d. Up to 2000 white-sided dolphins (*Lagenorhynchus acutus*)
e. Up to 100 Pilot whales (*Globicephala macrorhynchus*)
f. Up to 100 harbor porpoise (*Phocoena phocoena*)
g. Up to 50 minke whales (*Balaenoptera acutorostrata*)
h. Up to 100 sei whales (*Balaenoptera borealis*)
i. Up to 500 bottlenose dolphins (*Tursiops truncatus*)
j. Up to 100 Spotted dolphins (*Stenella* spp.)"

Section B.9 is changed to read:

This Permit is valid with respect to the taking authorized herein until December 31, 1990.

This modification becomes effective upon publication.

Documents pertaining to the Permit and all modifications are available for review in the following Offices:

Office of Protected Resources, National Marine Fisheries Service, 1335 East West Highway, Room 7324, Silver Spring, Maryland 20910.

Director, Northeast Region, National Marine Fisheries Service, One Blackburn Drive, Gloucester, Massachusetts 01930;

Director, Southeast Region, National Marine Fisheries Service, 9450 Koger Blvd., St. Petersburg, Miami.

Dated: January 3, 1990.

Nancy Foster,

Director, Office of Protected Resources and Habitat Programs, National Marine Fisheries Service.

[FR Doc. 90–549 Filed 1–9–90; 8:45 am]

BILLING CODE 3510–22–M

CIVIL RIGHTS COMMISSION

Missouri Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting and briefing session of the Missouri Advisory Committee to the Commission will convene at 10:00 a.m. and adjourn at 2:00 p.m., on January 26, 1990, at Penn Valley Community College, 3201 Southwest Trafficway, Room 502,

Kansas City, Missouri. The purpose of the meeting is to review the status of current Committee projects and discuss civil rights issues which are possible subjects for future activities.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson, Joanne M. Collins, or Ascension Hernandez, Civil Rights Analyst of the Central Regional Division (816) 426–5253, (TDD 816–426–5009). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Division at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, January 4, 1990.

Melvin L. Jenkins,

Acting Staff Director.

[FR Doc. 90–607 Filed 1–9–90; 8:45 am]

BILLING CODE 6335–01–M

Nebraska Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Nebraska Advisory Committee to the Commission will convene at 10:00 a.m. and adjourn at 2:00 p.m., on February 6, 1990, at the Old Federal Courthouse, 129 N. 10th—Room 323, Lincoln, Nebraska. The purpose of the meeting is to review the status of current Committee projects and discuss issues which are possible subjects for future activities.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson, Gary Hill, or Ascension Hernandez, Civil Rights Analyst of the Central Regional Division (816) 426–5253, (TDD 816/426–5009). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Division at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, January 4, 1990.

Melvin L. Jenkins,

Acting Staff Director.

[FR Doc. 90–608 Filed 1–9–90; 8:45 am]

BILLING CODE 6335–01–M

Pennsylvania Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Pennsylvania Advisory Committee to the Commission will be convened at 1:00 p.m. on Friday, January 26, 1990, in Room 6306 of the William J. Green Federal Building, 600 Arch Street, Philadelphia. The purpose of the meeting is to orient new members, discuss the status of the agency and the Committee's activities, and plan a project for 1990.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Susan M. Wachter (215/898–6355) or John I. Binkley, Director of the Eastern Regional Division, at (202/523–5264; TDD 202/376–8117). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Eastern Regional Division at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, DC, January 4, 1990.

Melvin L. Jenkins,

Acting Staff Director.

[FR Doc. 90–609 Filed 1–9–90; 8:45 am]

BILLING CODE 6335–01–M

COPYRIGHT ROYALTY TRIBUNAL

[CFT Docket No. 90–2–88CD]

Ascertainment of Whether Controversy Exists Concerning Distribution of 1988 Cable Royalty Fund

AGENCY: Copyright Royalty Tribunal.

ACTION: Notice.

SUMMARY: The Copyright Royalty Tribunal directs all claimants to royalty fees paid by cable operators for secondary transmissions during 1988 (Phase I and Phase II) to submit any comments concerning whether a controversy exists with regard to the distribution of the 1988 cable royalty fees. All claimants intending to participate in the 1988 proceeding shall include with their comments a Notice of Intent to Participate. Any particular controversy, Phase I or Phase II, of which the Tribunal does not become advised by the end of the comment period will not be considered at a later date without a showing of good cause. Specifically for Phase II, each claimant must state each program category in which he or she has an interest which by the end of the comment period has not yet been satisfied by private agreement.

DATE: Comments are due February 15, 1990.

ADDRESS: Chairman, Copyright Royalty Tribunal, 1111 20th Street NW., Suite 450, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Robert Cassler, General Counsel, Copyright Royalty Tribunal, 1111 20th Street NW., Suite 450, Washington, DC 20036 (202) 653–5175.

Dated: January 4, 1990.

J.C. Argetsinger,

Chairman.

[FR Doc. 90–491 Filed 1–9–90; 8:45 am]

BILLING CODE 1410–09–M

[CRT Docket No. 89–5–CRA]

Adjustment of the Syndicated Exclusivity Surcharge

AGENCY: Copyright Royalty Tribunal.

ACTION: Notice of commencement of proceedings.

SUMMARY: The Tribunal has received petitions from the Community Antenna Television Association and the National Cable Television Association requesting the Tribunal to eliminate the syndicated exclusivity surcharge on the cable royalty rates paid by cable systems. The Tribunal finds that petitioners have a significant interest in the royalty rates and gives notice of commencement of proceedings on the question of the syndicated exclusivity surcharge only, and not on any other issues raised by the petitions. The Tribunal requests comments on whether this proceeding should be decided by written pleadings, or whether any material questions of fact exist that would necessitate an oral hearing. Further, the Tribunal requests all those who intend to participate in this hearing, but who do not file the above requested comments, to file a Notice of Intent to Participate.

DATES: Comments concerning written or oral proceeding are due February 8, 1990. Notices of Intent to Participate are due February 8, 1990. Those who file comments do not have to file a Notice of Intent to Participate.

ADDRESS: An original and five copies of the comments should be addressed to:

Chairman, Copyright Royalty Tribunal, 1111 20th Street NW., Suite 450, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Robert Cassler, General Counsel, Copyright Royalty Tribunal, 1111 20th Street NW., Suite 450, Washington, DC 20036 (202) 653–5175.

SUPPLEMENTARY INFORMATION:

Background

On May 26, 1989, the Community Antenna Television Association (CATA), a trade association which represents cable television owners and operators in the United States, filed a petition with the Copyright Royalty Tribunal to eliminate the syndicated exclusivity surcharge which some cable operators pay in addition to their basic royalty rate.

The reason given by CATA was that since the Tribunal instituted the syndicated exclusivity surcharge to adjust for the loss of blackout protection for copyright owners that occurred when the FCC deleted its syndicated program exclusivity protection rules, there is no longer any need for the surcharge now that the FCC has reinstituted those rules.

On June 15, 1989, the National Cable Television Association, Inc. (NCTA), a trade association which represents cable television owners and operators in the United States, filed a similar petition with the Tribunal. However, in addition to requesting the elimination of the syndicated exclusivity surcharge, NCTA also requested that there be a downward adjustment of the basic rate paid by cable systems grossing more than $292,000 per half year and of the 3.75 percent rate for reasons also stemming from the FCC's action in reinstating its syndicated program exclusivity protection rules.

NCTA also asked the Tribunal to establish a bifurcated proceeding. The first part of the proceeding would be a consideration only of the elimination of the syndicated exclusivity surcharge. The second part of the proceeding would be the consideration of the reduction of the basic and 3.75 percent rates. NCTA reasoned that bifurcating the proceeding would allow for an earlier disposition on the question of the syndicated exclusivity surcharge before undertaking the potentially more complex task of quantifying the impact of the new FCC rules on the 3.75 percent rate and the basic rates.

On September 15, 1989, the Tribunal, after having read and considered the comments filed August 1 and September 6 on CATA's and NCTA's petitions, determined that the best disposition of the issues raised by the petitions precluded an immediate consideration of the petitions, and requested that CATA and NCTA refile their motions after January 1, 1990. 54 FR 38266.

On November 17, 1989, the D.C. Circuit Court of Appeals upheld the FCC's new rules. *United Video, Inc.* v. *Federal Communications Commission*, No. 88–1514 (D.C. Cir. Nov. 17, 1989).

On January 2, 1990, CATA and NCTA refiled their petitions with the Tribunal, asking for the same relief that they asked for in their original petitions.

Discussion

The Tribunal has determined from the petitions, the comments filed August 1, 1989 and September 6, 1989, and from the record established by previous proceedings, that CATA and NCTA have a significant interest in the cable copyright royalty rates, and accordingly have standing to petition the Tribunal for a rate adjustment.

The concern of the Tribunal is for the proper scheduling and disposition of these petitions. Facing the Tribunal during 1990 are several potential adjustments to the cable rates. First, there are the adjustments which CATA and NCTA argue are justified because of the FCC's rule changes. Second, there is the inflation adjustment to the statutory rates for which the Tribunal may be petitioned. Third, there is the general review of the 3.75 percent rate for which the Tribunal may also be petitioned.

Concerns for scheduling compel the Tribunal to agree with NCTA that a step-by-step approach to all these issues is the best way to proceed. To consider all of these adjustments as one cable adjustment in one proceeding would be too unwieldy and unfair to the parties, and might force scheduling due to the one-year statutory limit on Tribunal proceedings which would be contrary to the ends of justice.

In 1985, the Tribunal bifurcated the cable rate adjustments. During the spring of 1985, the Tribunal was petitioned to adjust the statutory rates for inflation, and that rulemaking proceeding was concluded in time for the first semiannual payments to be made by cable operators for 1985. Expressly reserved for another proceeding was any general review of the syndicated exclusivity surcharge and the 3.75 percent rate. One petition by Turner Broadcasting System was filed during the summer of 1985, and general rate review petitions were filed by several more parties in December, 1985. All of these petitions were subsequently withdrawn in 1986.

Accordingly, the Tribunal has determined to commence a rate adjustment proceeding on the sole question of whether the syndicated exclusivity surcharge should be eliminated in light of the actions taken by the FCC to reinstate its syndicated program exclusivity protection rules. Expressly reserved for another separately docketed proceeding is whether any adjustment to the basic statutory rates and the 3.75 percent rate should be made in light of the FCC's actions.

CATA and NCTA both argue that the syndicated exclusivity surcharge should be eliminated as a matter of law and policy—that the reason supporting the imposition of the syndicated exclusivity surcharge, the FCC's action in 1980, no longer exists due to the reversal by the FCC of that action in 1988.

Consequently, the initial question facing the Tribunal is whether this proceeding should be a "paper" proceeding, or whether any material questions of fact exist which would necessitate an oral hearing. The Tribunal is aware that section 804 proceedings do not have to be oral proceedings. In the past the Tribunal has adjusted royalty rates by informal rulemaking, such as the 1985 cable rate inflation adjustment and the 1987 mechanical royalty rate adjustment, and the Tribunal has distributed royalties based solely on written pleadings, such as the 1981 jukebox royalty distribution.

The Tribunal requests comments on the question of whether this proceeding should be decided by written pleadings, or whether any material questions of fact exist which would necessitate an oral hearing. Comments are due February 8, 1990. The Tribunal is also interested is ascertaining all parties who are interested in participating in this proceeding. For those who file comments by February 8, 1990 on the above question, no further action will be necessary. The Tribunal will consider these comments as the party's expression of intent to participate. However, for those who do not comment, but wish to participate, the Tribunal requests those parties to file a Notice of Intent to Participate by February 8, 1990.

Dated: January 4, 1990.

J.C. Argetsinger,

Chairman.

[FR Doc. 90–492 Filed 1–9–90; 8:45 am]

BILLING CODE 1410–09–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Advisory Committee on Military Personnel Testing

Pursuant to Public Law 92–463, notice is hereby given that a meeting of the Defense Advisory Committee on Military Personnel Testing is scheduled to be held from 8:30 a.m. to 4:30 p.m. on January 25, 1990, and from 8:30 a.m. to 10:30 a.m. on January 26, 1990. The meeting will be held at the Sheraton Hotel, 2000 NW. 19th Street, Boca Raton, Florida 33431. The purpose of the meeting is to review planned changes in the Department of Defense's Student Testing Program. Persons desiring to make oral presentations or submit written statements for consideration at the Committee meeting must contact Dr. Anita R. Lancaster, Executive Secretary, Defense Advisory Committee on Military Personnel Testing, Office of the Assistant Secretary of Defense (Force Management and Personnel), Room 2B271, The Pentagon, Washington, DC 20301–4000, telephone (202) 697–9271, no later than January 15, 1990.

Dated: January 3, 1990.

L.M. Bynum,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 90–610 Filed 1–9–90; 8:45 am]

BILLING CODE 3810–01–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 regarding Examination of Records by Comptroller General/Audit.

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

FOR FURTHER INFORMATION CONTACT: Mr. Jeremy Olson, Office of Federal Acquisition Policy, GSA (202) 523–3781.

SUPPLEMENTARY INFORMATION:

a. Purpose

The examination of records by the Comptroller General clause and the two audit clauses, audit—negotiation and audit—formal advertising, implement the requirements of 10 U.S.C. 2313, 41 U.S.C. 254, and 10 U.S.C. 2306. The statutory requirements are that the Comptroller General and/or agency shall have access to, and the right to, examine certain books, documents and records of the contractor for a period of 3 years after final payment. The record retention periods required of the contractor in the clauses are for compliance with the aforementioned statutory requirements. The information must be retained so that audits necessary for contract surveillance, verification of contract pricing, and reimbursement of contractor costs can be performed.

b. Annual Recordkeeping Burden

The annual recordkeeping burden is estimated as follows: Respondents, 19,336; responses per respondent, 3.34; total annual responses, 64,582; recordkeeping retention period 3 years.

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. 9000–0034, Examination of Records by Comptroller General/Audit.

Dated: December 26, 1989.

Margaret A. Willis,

FAR Secretariat.

[FR Doc. 90–567 Filed 1–9–90; 8:45 am]

BILLING CODE 6820–JC–M

DEPARTMENT OF ENERGY

Advisory Committee on Nuclear Facility Safety; Open Meetings

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463; 86 Stat. 770), notice is hereby given of the following advisory committee meeting:

Name: Advisory Committee on Nuclear Facility Safety

Date and Time: Thursday, January 25, 1990, 8:00 p.m. to 10:00 p.m. Friday, January 26, 1990, 8:00 a.m. to 5:00 p.m.

Place: Pollard Auditorium of Oak Ridge Associated Universities, 210 Badger Avenue, Oak Ridge, Tennessee 37830

Contact: Wallace R. Kornack, Executive Director, ACNFS, S–2, 1000 Independence Avenue SW., Washington, DC, 20585, Telephone: 202/586–1770

Purpose of the Committee: The Committee was established to provide the Secretary of Energy with advice and recommendations concerning the safety of the Department's production and utilization facilities, as defined in section 11 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2014).

Tentative Agenda

January 25, 1990

8:00 p.m. to 10:00 p.m. Public Comment Session

January 26, 1990

8:00 a.m. Chairman John F. Ahearne Opens Meeting, Review of Issues at Y–12 Plant, Subcommittee Reports, Committee Business,

Noon: Lunch

1:00 p.m. Review of Selected Technical Issues

5:00 p.m. Meeting Ends

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

Transcripts: The transcript of the meeting will be available for public review and copying at the Freedom of Information Public Reading Room, IE–190, Forrestal Building, 1000 Independence Ave SW., Washington, DC, between 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC on January 4, 1990.

J. Robert Franklin,

Deputy Advisory Committee, Management Officer.

[FR Doc. 90–588 Filed 1–9–90; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Project No. 10128-001]

Ivan D. Davis; Surrender of Exemption

January 4, 1990.

Take notice that Ivan D. Davis, exemptee for the St. George River Project No. 10128 located on St. George River in Waldo County, Main, has requested that his exemption from licensing be terminated. The exemption was issued on November 6, 1987. The exemptee states that no construction has been done on this project and that the project is not economically feasible.

The exemptee filed the request on December 1, 1989, and the exemption for Project No. 10128 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 18 CFR 385.007, in which case the exemption shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR part 4, may be filed on the next business day.

Lois D. Cashell,

Secretary.

[FR Doc. 90-546 Filed 1-9-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP86-41-007; RP87-14-007]

Algonquin Gas Transmission Co.; Compliance Filing

January 3, 1990.

Take notice that Algonquin Gas Transmission Company ("Algonquin") on December 7, 1989, in compliance with the Federal Energy Regulatory Commission's "Order Accepting, Suspending and Rejecting Tariff Sheets" issued November 24, 1989, tendered for filing to its FERC Gas Tariffs, Second Revised Volume No. 1 and Original Volume No. 2 certain tariff sheets to be effective November 1, 1989

Algonquin states that this instant filing (1) eliminates the transmission and compressions tracking provisions which the Commission directed be removed from Algonquin's tariff; (2) reflects the rates under the RP87-14 settlement cost of service including the negotiated level of transmission and compression expenses which the Commission observed were necessary for inclusion in lieu of the tracker; (3) includes the revision required by the Commission to section 2.4 of Rate Schedule AFT-1; and (4) modifies Section 17 of the General Terms and Conditions of its tariff.

Algonquin further states that additional workpapers were submitted as requested by the Commission to provide further explanation supporting said filing.

Algonquin notes that copies of this filing were served upon all parties on the official service list, each affected party and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR §§ 385.214, 385.211 (1988)). All such protests should be filed on or before January 9, 1990. 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. 514 Filed 1-9-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM90-3-48-000]

ANR Pipeline Co.; Proposed Changes in FERC Gas Tariff

January 4, 1990.

Take notice that ANR Pipeline Company ("ANR"), on December 29, 1989, tendered for filing as part of Original Volume No. 1 of its FERC Gas Tariff, six copies each of the following tariff sheets:

Substitute Twenty-Seventh Revised Sheet No. 18
Third Revised Sheet No. 116
Second Revised Sheet No. 117
Second Revised Sheet No. 118
Second Revised Sheet No. 119
First Revised Sheet No. 120
First Revised Sheet No. 121
Second Revised Sheet No. 124
Second Revised Sheet No. 125
First Revised Sheet No. 126
First Revised Sheet No. 127

ANR states that, pursuant to section 18.3 of its Tariff, the above referenced tariff sheets are being submitted as part of the First Annual Reconciliation of buyout and buydown costs contained in Docket Nos. RP89-45, RP89-127, RP89-193, RP90-18 and RP90-46.

This annual reconciliation reflects the restated fixed monthly charges and volumetric buyout buydown surcharges, that have resulted from any overcollection or undercollection related to actual carrying costs, based upon Commission published interest rates applied to actual buyout buydown payments made by ANR.

ANR has requested that the Commission accept this filing, to become effective February 1, 1990.

ANR states that copies of the filing were served upon all of its Volume Nos. 1, 1-A and 2 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 Commission, 825 North Capitol Street NE., Washington, DC 20426, by January 12, 1990, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 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 filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-528 Filed 1-9-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ90-2-48-000]

ANR Pipeline Co.; Proposed Changes in FERC Gas Tariff

January 4, 1990.

Take notice that ANR Pipeline Company ("ANR"), on December 29, 1989, tendered for filing as part of its F.E.R.C. Gas Tariff, Original Volume No. 1, the following tariff sheet to be effective January 1, 1990

Twenty-Seventh Revised Sheet No. 18

ANR states that the purpose of the instant filing is to implement ANR's quarterly PGA rate adjustment pursuant to section 15 of the General Terms and Conditions of ANR's Tariff.

Twenty-Seventh Revised Sheet No. 18 reflects a 25.66¢ per dekatherm ("dth") increase in the gas cost component of the commodity rate of ANR's CD-1/MC-1 Rate Schedules, from rates reflected in the November 1, 1989 Quarterly PGA in Docket No. TQ90-1-48, as restated to reflect a "saturated" BTU measurement basis and an increase of 25.74¢ per dth from rates reflected in the January 1, 1990 Interim Adjustment ("Flexible") PGA in Docket No. TF90-4-48.

The proposed rates incorporate two-part demand rates (D-1 and D-2) and are not seasonally differentiated, in compliance with the Commission's

October 31, 1989 Order in Docket No. RP89-161-001. The monthly D-1 demand rate and the D-2 demand rate for the CD-1/MC-1 Rate Schedules are decreased by $0.044 and .02¢ respectively, from rates reflected in ANR's "Amended Motion" filing of November 22, 1989 in Docket Nos. RP89-161 and RP89-172. There are no changes in the D-1 and D-2 demand rates from those reflected in the January 1990 "Flexible" PGA. The instant filing further reflects an increase in ANR's one-part rate applicable to SGS-1 of 49.62¢ per dth from rates reflected in the November 1989 Quarterly PGA, as restated and includes changes in rates proposed in the "Amended Motion" filing. There is also an increase of 25.74¢ per dth in the SGS-1 rate from rates reflected in the January 1990 "Flexible" PGA.

ANR states that copies of the filing were 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 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 January 10, 1990. 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. 90-519 Filed 1-9-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-135-003]

Arkla Energy Resources, a Division of Arkla, Inc.; Compliance Filing

January 4, 1990.

Take Notice that on January 2, 1990, Arkla Energy Resources ("AER"), a division of Arkla, Inc., filed the revised tariff sheets listed on Appendix A attached to the filing. AER states that these tariff sheets are being submitted in compliance with the Commission's December 20, 1989 order in this proceeding.

Any person desiring to protest AER's 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 of Practice and Regulations. All such protests should be filed on or before January 11, 1990. 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. 90-527 Filed 1-9-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. T090-3-61-000]

Bayou Interstate Pipeline System; Proposed Change in Rates

January 4, 1990.

Take notice that on December 29, 1989, Bayou Interstate Pipeline System (Bayou) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, (Tariff) Fifteenth Revised Sheet No. 4 to be effective February 1, 1990.

The proposed tariff sheet is filed pursuant to the Purchased Gas Cost Adjustment provisions contained in Section 15 of Bayou's tariff. A copy of this filing is being mailed to Bayou's jurisdictional sales customer and interested state regulatory agencies.

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 (Commission), 825 North Capitol Street NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211. All such motions or protests must be filed on or before January 10, 1990. 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. 90-543 Filed 1-9-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ89-4-63-002]

Carnegie Natural Gas Co.; Filing

January 4, 1990.

Take notice that Carnegie Natural Gas Company ("Carnegie"), on December 22, 1989, tendered for filing the following proposed revised tariff sheets as required by the Commission's "Order Granting Rehearing" issued in this proceeding on December 7, 1989:

First Revised Sheet No. 18
First Revised Sheet No. 19
First Revised Sheet No. 220.

Carnegie states that proposed First Revised Sheet Nos. 18 and 19 revise section 4.2 of Carnegie's LVWS Rate Schedule to state that the LVWS monthly D-2 demand charge is the product of the D-2 rate multiplied by the D-2 billing determinant as listed in the Index of Purchasers. Carnegie states that revised Sheet No. 220 (the "Index of Purchasers") now lists each Customer's D-1 and D-2 billing determinants, as required by the Order Granting Rehearing.

Carnegie states that it has served the filing upon the company's jurisdictional customers, applicable state commissions, and other parties that have intervened in this docket.

Any person desiring to protest said filing should file an intervention 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 interventions or protests should be filed on or before January 11, 1990. 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. 90-523 Filed 1-9-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP90-69-000]

Colorado Interstate Gas Co.; Proposed Changes in FERC Gas Tariff

January 4, 1990.

Take notice that Colorado Interstate Gas Company (CIG) on December 29, 1989, tendered for filing proposed changes in its FERC Gas Tariff, Original

Volume Nos. a and 2 and Second Revised Volume No. 1–A. The proposed base tariff rates would increase revenues from CIG's jurisdictional customers by approximately $26.6 million above CIG's currently effective rates (excluding the GRI adjustment and all surcharges). The proposed increase is based on the 12-month period ended September 30, 1989, adjusted for known and measurable changes which will become effective within the nine months subsequent to that date, as provided in the Commission's Regulations.

CIG states that the jurisdictional rates filed herewith are designed to enable CIG to recover its jurisdictional cost of service in recognition that sales entitlements on its system have been reduced and its cost of service is higher than the level established in settlement of Docket No. RP87–30.

CIG states that its filing supports a rate change greater than that which it has requested. Specifically, CIG states that it is seeking recovery of only two-thirds of the rate increases it has supported.

CIG requests all necessary waivers of the Commission's Regulations in order for its filing to be accepted and to be effective on February 1, 1990.

Copies of CIG's filing have been served on CIG's jurisdictional customers and interested public bodies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NW., Washington, DC 20426, in accordance with § § 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before Jan. 11, 1990. 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. 90–532 Filed 1–9–90; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM90–6–21–000]

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

January 4, 1990.

Take notice that Columbia Gas Transmission Corporation (Columbia) on December 29, 1989, tendered for filing the following proposed changes to its FERC Gas Tariff, Original Volume No. 1, to be effective January 1, 1990:

First Revised Sheet No. 16B12

Columbia states that the foregoing tariff sheet modifies and supplements Columbia's previous filings in Docket Nos. RP88–187, *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 No. TM90–5–21 to permit it to flow through revised take-or-pay and contract reformation costs from (i) Panhandle Eastern Pipe Line Company (Panhandle) pursuant to a filing made on October 31, 1989, amended November 15, 1989, and further amended November 22, 1989, which was accepted by Commission's order issued on December 22, 1989 in Docket No. TM 90–7–28, and (ii) Panhandle pursuant to a filing made on October 31, 1989, amended November 15, 1989 and further amended November 22, 1989, which was accepted by Commission's order issued on December 22, 1989 in Docket No. TM90–8–28.

Columbia states that this filing was served upon its 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 January 11, 1990. 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. 90–524 Filed 1–9–90; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TQ90–3–21–000]

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

January 4, 1990.

Take notice that Columbia Gas Transmission Corporation (Columbia) on December 29, 1989, tendered for filing the following proposed changes to its FERC Gas Tariff, Original Volume No. 1, to be effective February 1, 1990:

One hundred forty-sixth Revised Sheet No. 16
Thirty-fourth Revised Sheet No. 16A2
Forty-fifth Revised Sheet No. 64A

Columbia states that the sales rates set forth on One hundred forty-sixth Revised Sheet No. 16 reflect an overall increase of 3.89¢ per Dth in the Commodity rate, and an increase of $.031 per Dth in the Demand rate. In addition, the transportation rates set forth on Thirty-fourth Revised Sheet No. 16A2 reflect an increase in the Fuel Charge component of .11¢ per Dth.

The purpose of the subject tariff sheets is to reflect the following:

(1) A Current Purchased Gas Cost Adjustment applicable to Sales Rate Schedules;

(2) A continuation of certain surcharges which were accepted by the Commission to be effective through April 30, 1990;

(3) A Transportation Fuel Charge Adjustment; and

(4) Recovery of Firm Transportation Commodity Charges expected to be incurred by Columbia during February and March, 1990, in connection with its conversion from firm sales entitlements to firm transportation services on certain pipeline suppliers.

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, 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 January 12, 1990. 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. 90-529 Filed 1-9-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ90-2-2-000]

East Tennessee Gas Natural Gas Co. Pursuant To Tariff Rate Adjustment Provisions

January 4, 1990.

Take notice that on December 28, 1989, East Tennessee Natural Gas Company (East Tennessee) filed Fifty-fifth Revised Sheet No. 2 to its FERC Gas Tariff, to be effective January 1, 1990.

East Tennessee states that the out-of-cycle Purchased Gas Cost Rate Adjustment reflects an increase of 17.42 cents from the gas rate filed by East Tennessee in its Annual PGA in Docket No. TA90-1-2, resulting in a Current Rate after Adjustement of $3.2439 per Dkt. This adjustment, reflecting an average commodity cost of gas (sales Wacog) of $3.2540 per dkt, is based upon the cost of supplies from Tennessee Gas Pipeline Company reflected in Tennessee's Out-of-Cycle GPA Adjustment filed in Docket No. TQ90-2-9.

East Tennessee states that copies of the filing have been mailed to all of its customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or 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 January 10, 1990. 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. 90-537 Filed 1-9-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TQ90-2-45-000]

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

January 4, 1990.

Take notice that on December 28, 1989, Inter-City Minnesota Pipelines, 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 February 1, 1990.

Original Volume No. 1
Thirty-Seventh Revised Sheet No. 4

Inter-City states that this sheet is Inter-City's quarterly PGA.

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 January 10, 1990. 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. 90-525 Filed 1-9-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ90-3-46-000]

Kentucky West Virginia Gas Co.; Proposed Change in FERC Gas Tariff

January 4, 1990.

Take notice that Kentucky West Virginia Gas Company (Kentucky West) on December 29, 1989, tendered for filing with the Federal Energy Regulatory Commission (Commission) a quarterly PGA filing, which includes Eighteenth Revised Sheet No. 41 to its FERC Gas Tariff, Second Revised Volume No. 1, to become effective February 1, 1990. The revised tariff sheet reflects a current increase of $.40 in the average cost of purchased gas resulting in a Weighted Average Cost of Gas of $3.0219.

Kentucky West states that, effective February 1, 1990, pursuant to its obligations under various gas purchase contracts, it has specified a total price of $3.0504 per dth, inclusive of all taxes and any other production-related cost add-ons that it would pay under these contracts.

Kentucky West states that, by its filing, or any request or statement made therein, it does not waive any rights to collect amounts, nor the right to collect carrying charges applicable thereto, to which it is entitled pursuant to the mandate of the United States Court of Appeals for the Fifth Circuit issued on March 6, 1986, in Kentucky West Virginia Gas Co. v. FERC, 780 F.2d 1231 (5th Cir. 1986), or to which it becomes entitled pursuant to any other judicial and/or administrative decisions.

Kentucky West states that a copy of its filing has been served upon each 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 NW., Washington, DC 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before January 10, 1990. 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 Cashell,

Secretary.

[FR Doc. 90-538 Filed 1-9-90; 845 am]

BILLING CODE 6717-01-M

[Docket No. TQ90-2-46-000]

Kentucky West Virginia Gas Co.; Proposed Change in FERC Gas Tariff

January 4, 1990.

Take notice that Kentucky West Virginia Gas Company (Kentucky West) on December 29, 1989, tendered for filing with the Federal Energy Regulatory Commission (Commission) an Out-of-Cycle PGA filing, which includes Seventeenth Revised Sheet No. 41 to its FERC Gas Tariff, Second Revised Volume No. 1, to become effective January 1, 1990. The revised tariff sheet reflects a current increase of $.5693 in

the average cost of purchased gas resulting in a Weighted Average Cost of Gas of $2.6219.

Kentucky West states that, effective January 1, 1990, pursuant to its obligations under various gas purchase contracts, it has specified a total price of $2.6604 per dth, inclusive of all taxes and any other production-related cost add-ons that it would pay under these contracts.

Pursuant to § 154.51 of the Commission's regulations, Kentucky West requests waiver of the thirty day notice requirement to permit the tariff sheet attached hereto to become effective on January 1, 1990. In addition, Kentucky West requests waiver of Section 154.304 of the Commission's regulations and any other provisions of the Commission's regulations necessary to permit the attached tariff sheet to become effective on January 1, 1990.

Kentucky West states that, by its filing, or any request or statement made therein, it does not waive any rights to collect amounts, nor the right to collect carrying charges applicable thereto, to which it is entitled pursuant to the mandate of the United States Court of Appeals for the Fifth Circuit issued on March 6, 1986, in *Kentucky West Virginia Gas Co.* v. *FERC*, 780 F.2d 1231 (5th Cir. 1986), or to which it is or becomes entitled pursuant to any other judicial and/or administrative decisions.

Kentucky West states that a copy of its filing has been served upon each 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 and 385.214). All such motions or protests should be filed on or before January 10, 1990. 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 Cashell,

Secretary.

[FR Doc. 90-544 Filed 1-9-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ90-3-5-000]

Midwestern Gas Transmission Co.; Rate Filing Pursuant to Tariff Rate Adjustment Provisions

January 4, 1990.

Take notice that on December 28, 1989, Midwestern Gas Transmission Company (Midwestern) filed Fourth Revised Sheet No. 5 to its FERC Gas Tariff, to be effective January 1, 1990.

Midwestern states that the out-of-cycle Purchased Gas Cost Rate Adjustment reflects an increase of 16.80 cents from the gas rate filed by Midwestern in its Quarterly PGA in Docket No. TQ90-2-5, resulting in a Current Rate after Adjustment of $3.3679 per dkt. This adjustment, reflecting an average commodity cost of gas (sales Wacog) of $3.3502 per dkt, is based upon the cost of supplies from Tennessee Gas Pipeline Company reflected in Tennessee's Out-of-Cycle PGA Adjustment filed in Docket No. TQ90-2-9.

Midwestern states that copies of the filing have been mailed to all of its customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or 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 January 10, 1990. 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. 90-539 Filed 1-9-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ90-2-47-000]

MIGC, Inc.; Proposed Purchased Gas Adjustment Rate Change

January 4, 1990.

Take notice that on December 29, 1989, MIGC, Inc. (MIGC) tendered for filing Fifty-Sixth Revised Sheet No. 32 to its FERC Gas Tariff Original Volume No. 1. MIGC states the purpose of this proposed tariff change is to submit its scheduled quarterly purchased gas cost adjustment (PGA) filing pursuant to the Commission's revised PGA regulations and the revised PGA provisions of MIGC's tariff, as approved in Docket No. RP88-143-000. The revised tariff sheet is proposed to become effective February 1, 1990.

Fifty-Sixth Revised Sheet No. 32 included in the filing reflects a $.0000 per MMBtu quarterly PGA adjustment. MIGC states that the proposed quarterly PGA adjustment reflects no change in the current adjustment to be effective February 1, 1990.

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 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214 and 385.211). All such petitions or protests should be filed on or before January 10, 1990. 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. 90-520 Filed 1-9-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ90-2-25-000]

Mississippi River Transmission Corp.; Rate Change Filing

January 4, 1990.

Take notice that on December 29, 1989, Mississippi River Transmission Corporation (MRT) tendered for filing Thirty-Ninth Revised Sheet No. 4 to its FERC Gas Tariff, Second Revised Volume No. 1. This tariff sheet is proposed to become effective January 1, 1990.

MRT states that Thirty-Ninth Revised Sheet No. 4, to be effective January 1, 1990 reflects a $.1250 per MMBtu increase in its commodity cost of gas. MRT states that this tariff sheet represents an out-of-cycle purchased gas cost adjustment (PGA) filing necessitated by unanticipated and unforeseeable increases in the spot market prices of natural gas which MRT is currently experiencing. MRT states

that because spot market purchases constitute a significant portion of its overall purchase mix of system supply gas, its overall gas costs have risen significantly, and its presently effective rates no longer reflect the current costs of gas which MRT is now experiencing.

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 January 12, 1990. 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. 90–530 Filed 1–9–90; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. CI87–324–002 and CI87–324–003]

Natural Gas Clearinghouse; Applications To Amend a Blanket Certificate with Pregranted Abandonment

January 4, 1990.

Take notice that on December 28, 1989, Natural Gas Clearinghouse (NGC) of 13430 Northwest Freeway, Suite 1200, Houston, Texas 77040, filed two applications pursuant to sections 4 and 7 of the Natural Gas Act and the Federal Energy Regulatory Commission's (Commission) regulations thereunder to amend its blanket certificate with pregranted abandonment previously issued by the Commission in Docket No. CI87–547–000.

In Docket No. CI87–324–002 NGC requests that the Commission amend its certificate to include any sales for resale of gas subject to the Commission's jurisdiction that may not already be covered by its existing blanket certificate including gas imported from Canada by Natgas U.S. Inc. (Natgas) under the authorization granted in the order issued in *Northwest Alaskan Pipeline Company, et al.*, Docket Nos. CP78–123–028, *et al.* (December 21, 1989); other imported gas including liquified natural gas; and gas purchased from "non-first-sellers" such as gas purchased from pipelines under interruptible discount sales programs. NGC also requests that its certificate be amended to reflect a name change from Natural Gas Clearinghouse Inc. to Natural Gas Clearinghouse.

In Docket No. CI87–324–003 NGC requests that the Commission amend its certificate to include sales for resale of gas imported from Canada by Natgas under the authorization granted in the order issued in *Northwest Alaskan Pipeline Company, et al.*, Docket Nos. CP78–123–028, *et al.* (December 21, 1989). NGC also requests that its certificate be amended to reflect a name change from Natural Gas Clearinghouse Inc. to Natural Gas Clearinghouse. In addition, NGC requests that, if the Commission is unable to grant its application in Docket No. CI87–324–002 in the immediate future, it first deal with its application in Docket No. CI87–324–003. The applications are on file with the Commission and open for public inspection.

NGC requests that the Commission act expeditiously to grant its applications. NGC states that the authorization requested to resell Canadian gas purchased from Natgas was requested by Natgas in Docket No. CI89–348–001 but denied by the Commission. According to NGC, the lack of authority for marketers purchasing Canadian gas from Natgas to resell the gas will deprive resale customers of badly needed supplies during the present tight-supply situation and, even if supplies should become less tight, these customers will be deprived of a competitively priced source of supply.

It appears reasonable and consistent with the public interest in this case to prescribe a period of 10 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before January 16, 1990, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for NGC to appear or to be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 90–541 Filed 1–9–90; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ES90–20–000]

New York State Electric & Gas Corp.; Application

January 4, 1990.

Take notice that on December 22, 1989, New York State Electric & Gas Corporation ("Application") filed an application with the Federal Energy Regulatory Commission ("Commission"), seeking authority pursuant to section 204 of the Federal Power Act, authorizing the issuance of short-term promissory notes during the period ending January 1, 1993, in aggregate principal amount not to exceed $250 million at any one time.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426 in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before January 21, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90–542 Filed 1–9–90; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP89–136–012]

Northern Natural Gas Co.; Division of Enron Corp.; Proposed Changes in FERC Gas Tariff

January 4, 1990.

Take notice that Northern Natural Gas Company, Division of Enron Corp., (Northern) on December 22, 1989, tendered for filing Proposed Changes to its FERC Gas Tariff.

Northern states that this filing is being submitted pursuant to the terms and conditions set forth in the Commission's order issued on December 7, 1989 in the above proceeding.

Northern further states that copies of this filing were served upon Northern's customers, parties to this proceeding and all interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of this chapter. All such protests should be filed on or before January 11, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Persons that are already parties 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. 90-533 Filed 1-9-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ90-1-41-000]

Paiute Pipeline Co. Proposed Change in FERC Gas Tariff

January 4, 1990.

Take notice that Paiute Pipeline Company (Paiute) on December 29, 1989, tendered for filing pursuant to part 154 of the Commission's regulations, a Quarterly Adjustment in Rates for jurisdictional gas service rendered to sales customers served under rate schedules affected by and subject to the PGA provisions contained in section 9 of the General Terms and Conditions of Paiute's FERC Gas Tariff, Original Volume No. 1.

Paiute tendered Twelfth Revised Sheet No. 10 which reflected a decrease of 10.04 cents per dekatherm in commodity rates compared with those in effect on November 1, 1989. Paiute's demand charges do not contain gas costs and no demand gas costs are included in this filing.

Paiute states that in a previous quarterly PGA filing, the Commission ordered Paiute to provide in future PGA filings a breakdown of purchases from its suppliers by NGPA category. In accordance with the Commission's Order, Paiute has included the required information, which was provided by its suppliers in its filing. Paiute states that the projected rate reflected in its filing for purchases from the suppliers is not based on NGPA category, but rather upon the total projected supply delivered by each supplier into Paiute's system.

The proposed effective date for the tendered tariff sheet is February 1, 1990.

Copies of the filing were served on Paiute's jurisdictional sales customers, interested parties and state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, 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 January 10, 1990. 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. 90-521 Filed 1-9-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA90-1-28-000]

Panhandle Eastern Pipe Line Co.; Proposed Changes in FERC Gas Tariff

January 4, 1990.

Take notice that Panhandle Eastern Pipe Line Company (Panhandle) on December 29, 1989, tendered for filing the following revised tariff sheets to its FERC Gas Tariff, Original Volume No. 1:

Seventy-Seventh Revised Sheet No. 3-A
Fifty-Fourth Revised Sheet No. 3-B

The proposed effective date of these revised tariff sheets is March 1, 1990.

Panhandle states that these revised tariff sheets filed herewith reflect a non-gas commodity rate decrease of (0.13¢) per Dt pursuant to section 22 of the General Terms and Conditions of Panhandle's tariff (ANGTS tracking mechanism).

Panhandle further states that these revised tariff sheets filed herewith reflect the following changes to Panhandle's D1 and D2 demand rates:

(1) An increase of $0.07 for D1 pursuant to section 22 of the General Terms and Conditions of Panhandle's tariff (ANGTS tracking mechanism); and

(2) A decrease of ($0.06) for D1 and a decrease of (0.44¢) for D2 pursuant to section 18.4 of the General Terms and Conditions of Panhandle's tariff (pipeline suppliers' demand costs).

Panhandle states that the above-referenced tariff sheets are being filed in accordance with § 154.305 (Annual PGA filing) of the Commission's Regulations and pursuant to §§ 18.1 and 18.4 (Purchased Gas Demand Rate Adjustments by Pipeline suppliers) and section 22 (ANGTS tracking mechanism) of Panhandle's FERC Gas Tariff, Original Volume No. 1 to reflect the changes in Panhandle's jurisdictional sales rates effective March 1, 1990.

Panhandle states that it should be noted that by order dated June 30, 1989, issued in Docket No. RP89-185-000, the Commission accepted for filing section 25 (Seasonal Sales Program) of Panhandle's FERC Gas Tariff, Original Volume No. 1. Pursuant to section 25.31 thereof, sections 18.2, 18.3, 18.5, 18.6, 18.7 and 18.8 are suspended until re-established in accordance with section 25.32. Accordingly, Panhandle is reflecting as a current adjustment only the changes in its jurisdictional sales rates mentioned above.

Panhandle states that copies of its filing have been served on all jurisdictional sales customers and applicable state regulatory agencies.

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 January 25, 1990. 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. 90-516 Filed 1-9-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-73-006]

Pelican Interstate Gas System; Compliance Filing

January 4, 1990.

Take notice that Pelican Interstate Gas System ("Pelican") on December 22, 1989 tendered for filing the following tariff sheets in compliance with ordering paragraph (B) of the Commission's Order dated December 11, 1989, in the captioned proceeding:

First Revised Sheet No. 54

First Revised Sheet No. 77.

Pelican has requested an effective date of January 21, 1990.

Pelican states that copies of its filing have been served on 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 §§ 385.214 and 385.211 of the Commission's Rules of Practice and Procedures. All such protests should be filed on or before January 11, 1990. 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. 90-526 Filed 1-9-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-242-003]

Tennessee Gas Pipeline Company; Filing

January 4, 1990.

Take notice on December 22, 1989, Tennessee Gas Pipeline Company (Tennessee) tendered for filing the following revised tariff sheets in Second Revised Volume No. 1 of its FERC Gas Tariff to be effective on October 26, 1989:

Original Sheet No. 254
Original Sheets Nos. 255 through 299

Tennessee states that this filing is being made to comply with the Commission's order on October 25, 1989, which directed Tennessee to revise its tariff to set forth the minimum throughput required for the operation of the compressors located on its system based upon designed compressor ratios and design suction pressures.

Tennessee states that copies of its filing are available for inspection at its principal place of business in the Tenneco Building, Houston, Texas, and have been mailed to all affected customers.

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 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.221 and 385.214). All such protests should be filed on or before January 11, 1990. 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. 90-534 Filed 1-9-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ90-1-58-000]

Texas Gas Pipe Line Corp.; Proposed Changes in FERC Gas Tariff Sheets

January 4, 1990.

Take notice that on January 2, 1990, Texas Gas Pipe Line Corporation (TGPL) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1 (Tariff), the below listed tariff sheet to be effective February 1, 1990.

Twenty-Eighth Revised Sheet No. 4a

TGPL states that the purpose of the instant filing is to reflect rate adjustments pursuant to Section 12 of the General Terms and Conditions of TGPL's Tariff (Purchased Gas Cost Adjustments). Specifically, Twenty-Eighth Revised Sheet No. 4a reflects an average cost of gas of 201.74¢/Mcf, representing a current adjustment increase of 14.76¢/Mcf. The tariff sheet also reflects a surcharge adjustment reduction of .19¢/Mcf and a proposed total rate of 231.02¢/Mcf (at 14.65 psia).

Copies of the filing were served upon TGPL's jurisdictional customers.

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 January 12, 1990. 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. 90-531 Filed 1-9-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ90-2-29-000]

Transcontinental Gas Pipe Line Corp.; Proposed Changes in FERC Gas Tariff

January 4, 1990.

Take notice that Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing on January 2, 1990 revised tariff sheets to Second Revised Volume No. 1 of its FERC Gas Tariff, which tariff sheets are included in Appendix A attached to the filing. Such tariff sheets are proposed to be effective February 1, 1990.

Transco states that the proposed tariff sheets reflect a rate increase of 15.5¢ in the current gas cost portion of commodity rates under the CD, G, OG, E, PS, ACQ and S-2 Rate Schedules compared to Transco's last scheduled quarterly PGA filing which became effective November 1, 1989. The instant PGA filing reflects an average cost of gas of 265.5¢ per dt for the quarterly period February 1, 1990 through April 30, 1990.

Transco further states that it has filed the necessary schedules in order to comply with § 154.305 and FERC Form 542. Transco has also filed a 9-track magnetic tape as required by FERC Form 542.

In accordance with submission procedures for electronic filings in Commission Order No. 493, *et al.*, Transco hereby submits Diskette TQ010290. ASC along with the corresponding hard copies. Such hard copies include the same information as contained on the diskette.

Transco states that copies of the instant filing are being mailed to its jurisdictional customers and interested State Commissions. In accordance with provisions of § 154.16 of the Commission's Regulations, copies of this filing are available for public inspection, during regular business hours, in a convenient form and place at Transco's main offices at 2800 Post Oak Boulevard in Houston, Texas.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or

protests should be filed on or before January 12, 1990. Protests will be c nsidered 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. 90–535 Filed 1–9–90; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP89–38–000 and RP89–99–000

U–T Offshore system; Informal Settlement Conference

January 4, 1990.

Take notice that an informal settlement conference will be convened in the above-proceedings on Wednesday, January 24, 1990, at 10:00 a.m., in a hearing room of the Federal Energy Regulatory Commission, 810 First Street NE., Washington, DC 20426.

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

For additional information, please contact John J. Keating (202) 357–5762 or Robert Woods (202) 357–8549.

Lois D. Cashell,

Secretary.

[FR Doc. 90–545 Filed 1–9–90; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TQ90–2–82–000 TM90–2–82–000]

Viking Gas Transmission Co.; Rate Filing Pursuant To Tariff Rate Adjustment Provisions

January 4, 1990.

Take notice that on December 29, 1989, Viking Gas Transmission Company (Viking) filed its Fourth and Fifth Revised Sheets No. 6 to Original Volume No. 1 of its FERC Gas Tariff, to be effective January 1 and February 1, 1990, respectively.

Viking states that the current Purchased Gas Cost Rate Adjustments reflected on Fifth Revised Sheet No. 6 consist of a ($0.0784) cents per dekatherm adjustment applicable to the gas component of Viking's sales rates, and a ($1.25) cents per dekatherm adjustment applicable to the demand D–1 component.

Forth Revised Sheet No. 6 is being filed to reflect the new GRI Rate Adjustment effective January 1, 1990.

Viking 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 herd 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. All such petitions or protests should be filed on or before January 10, 1990. 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; provided, however, that any person who had previously filed a petition to intervene in this proceeding is not required to file a further petition. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90–540 Filed 1–9–90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ90–2–52–000]

Western Gas Interstate Co.; Proposed Changes in FERC Gas Tariff

January 4, 1990.

Take notice that Western Gas Interstate Company ("Western"), on January 2, 1990 tendered for filing proposed changes to its FERC Gas Tariff, First Revised Volume No. 1. The proposed effective date for the tariff sheets is February 1, 1990.

Western states that, among other things, its filing proposes changes to its rates in accordance with the terms of the Purchased Gas Adjustment Clause of its FERC Gas Tariff, which permits recovery of changes in the cost of gas and of unrecovered purchased gas costs.

Western further states that the proposed changes provide for: (1) An increase in cost under Western's Rate Schedule G–S of 2.56 cents per Mcf; and (2) a decrease in cost under Western's Rate Schedule G–S of 34.32 cents per Mcf.

Finally, Western states that copies of the filing were served upon Western's transmission system customers and interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene 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 and Regulations. All such motions or protests should be filed on or before January 12, 1990. 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. 90–517 Filed 1–9–90; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TQ90–2–43–000 and TM90–6–43–000]

Williams Natural Gas Co.; Proposed Changes in FERC Gas Tariff

January 4, 1990.

Take notice that Williams Natural Gas Company (WNG) on December 29, 1989 tendered for filing the following tariff sheets to its FERC Gas Tariff, Original Volume No. 1:

Eighteenth Revised Sheet No. 6
Fourth Revised Sheet No. 6A
Seventeenth Revised Sheet No. 7

WNG states that pursuant to the Purchased Gas Adjustment in Article 21 of its FERC Gas Tariff, it proposes to decrease its rates effective February 1, 1990, to reflect a $.0195 per Dth decrease in the Cumulative Adjustment and to reflect decreases in transportation fuel rates and in gathering fuel rates.

WNG states that pursuant to Article 29 of its FERC Gas Tariff, the above referenced tariff sheets reflect a revised TOP Volumetric Surcharge for the period February 1, 1990 through April 30, 1990 of $.0264 per Dth.

WNG states that copies of its filing were served on all jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said 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

January 10, 1990. 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. 90-522 Filed 1-9-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ90-2-49-000]

Williston Basin Interstate Pipeline Co.; Purchased Gas Cost Adjustment Filing

January 4, 1990.

Take notice that on December 29, 1989, Williston Basin Interstate Pipeline Company (Williston Basin), Suite 200, 304 East Rosser Avenue, Bismarck, North Dakota 58501, tendered for filing as part of its FERC Gas Tariff the following tariff sheets:

First Revised Volume No. 1
Second Revised Twentieth Revised Sheet No. 10
Original Volume No. 1-A
Second Revised Fifteenth Revised Sheet No. 11
Twenty-First Revised Sheet No. 12
Tenth Revised Sheet No. 97A
Original Volume No. 1-B
Second Revised Ninth Revised Sheet No. 10
Second Revised Ninth Revised Sheet No. 11
Original Volume No. 2
First Revised Twenty-second Revised Sheet No. 10
Sixteenth Revised Sheet No. 11B

The proposed effective date of the tariff sheets is February 1, 1990.

Second Revised Twentieth Revised Sheet No. 10 (First Revised Volume No. 1) and First Revised Twenty-Second Revised Sheet No. 10 (Original Volume No. 2) reflect an increase in the Current Gas Cost Adjustment applicable to Rate Schedules G-1, SGS-1, E-1 and X-1 of 26.588 cents per dkt as compared to that contained in the Company's September 28, 1989 PGA filing in Docket No. TQ90-1-49-000, effective November 1, 1989.

The remaining tariff sheets submitted in the instant filing reflect an increase of 0.546 cents per dkt in the fuel reimbursement charge component of the Company's relevant transportation rates as compared to that contained in the Company's September 28, 1989 filing in Docket No. TQ90-1-49-000, effective November 1, 1989. Such increase in the fuel reimbursement charge is a result of the changes in Williston Basin's average cost of purchased gas.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before January 10, 1990. 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 the filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-518 Filed 1-9-90; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-3703-6]

Open Meetings of the International; Environmental Technology Transfer Advisory Board Subcommittees

Under Public Law 92-463, notice is hereby given that meetings of the International Environmental Technology Transfer Advisory Board's (IETTAB) subcommittees will be held on February 15 and 22, 1990. The Needs and Obstacles Subcommittee will meet on February 15, 1990, and the Transfer Facilitation Subcommittee will meet on February 22, 1990. Both meetings will be held in the Main Lounge of the National Press Club, 14th and F Streets NW., Washington, DC. The meetings are open to the public from 8:30 a.m. until approximately 12:30 p.m.

The purpose of the Needs and Obstacles Subcommittee meeting is to identify needs for and barriers to the transfer of environmental technology to low income countries, as well as potential solutions to these barriers. The purpose of the Transfer Facilitation Subcommittee meeting is to review ways and means to facilitate such environmental technology transfer.

Public comments can be made through written statements which will be distributed to Board members. Written statements must be sent in care of the Executive Secretary listed below no later than February 9, 1990, in order to distribute to Members before the meeting time. Seating for interested members of the public is limited to seventy seats. Seats will be filled on a first-come basis. To confirm your interest in attending, contact the Executive Secretary by February 7, 1990.

FOR MORE INFORMATION CONTACT: Mark Kasman, Executive Secretary, IETTAB, Office of International Activities (A-106), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (202) 382-4870.

Dated: January 3, 1990.

Approved by:

Timothy B. Atkeson,

Assistant Administrator for International Activities.

[FR Doc. 90-587 Filed 1-9-90; 8:45 am]

BILLING CODE 6560-50-M

[OPP-50694; FRL-3659-6]

Issuance of Experimental Use Permits

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted experimental use permits to the following applicants. These permits are in accordance with, and subject to, the provisions of 40 CFR part 172, which defines EPA procedures with respect to the use of pesticides for experimental use purposes.

FOR FURTHER INFORMATION CONTACT: By mail: Registration Division (H7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

In person or by telephone: Contact the product manager at the following address at the office location or telephone number cited in each experimental use permit: 1921 Jefferson Davis Highway, Arlington, VA.

SUPPLEMENTARY INFORMATION: EPA has issued the following experimental use permits:

464-EUP-100. Issuance. Dow Chemical U.S.A., P.O. Box 1706, Midland, MI 48641. This experimental use permit allows the use of 112.5 pounds of the insecticide O-[2-(1,1-dimethylethyl)-5-pyrimidinyl] O,O-diethylphosphorothioate on 75 acres of turf grass to evaluate the control of various turf grass insects. The program is authorized only in the States of Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Maryland, Missouri, New York, Ohio, and Pennsylvania. The experimental use permit is effective from August 14, 1989 to August 11, 1990.

(Dennis Edwards, PM 12, Rm. 202, CM#2, (703–557–2386))

524–EUP–69. Extension. Monsanto Agricultural Company, 800 N. Lindbergh Blvd., St. Louis, MO 63167. This experimental use permit allows the use of 1,580 pounds of the herbicide 3,5-pyridinedicarbothioic acid, 2-(difluoromethyl)-4-(2-methylpropyl)-6-(trifluoromethyl)-S,S-dimethyl ester on 3,960 acres of ornamental turf to evaluate the control of various weeds. The program is authorized in the States of Alabama, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Utah, Virginia, Washington, and Wisconsin and the District of Columbia. The experimental use permit is effective from October 24, 1989 to November 1, 1990. (Joanne Miller, PM 23, Rm. 237, CM#2, (703–557–1830))

524–EUP–71. Issuance. Monsanto Agricultural Company, 800 N. Lindbergh Blvd., St. Louis, MO 63167. This experimental use permit allows the use of 3,080 pounds of the growth regulator (†)-(*R**, *R**)-beta-[(4-chlorophenyl)methyl-alpha-(1,1-dimethylethyl)-1-*H*-1,2,4-triazole-1-ethanol on 8.4 acres of ornamental trees to evaluate the extension of tree trimming cycles by slowing regrowth. The program is authorized in all 50 States except Alaska, Hawaii, Montana, Nevada, North Dakota, and Wyoming. The experimental use permit is effective from October 1, 1989 to October 1, 1991. This permit is issued with the limitation that: (1) Sugar maple trees or any other trees that could be tapped for sugar are not harvested within 1 year after treatment and (2) treated nut and fruit trees are not harvested within 1 year after application. (Robert Taylor, PM 25, Rm. 245, CM#2, (703–557–1800))

45639–EUP–39. Renewal. Nor-Am Chemical Company, P.O. Box 7495, 3509 Silverside Road, Wilmington, DE 19803. This experimental use permit allows the use of 4,519.5 pounds of the insecticide/miticide amitraz on 4,520 acres of cotton to evaluate the control of various insects and mites. The program is authorized in the States of Alabama, Arizona, Arkansas, California, Georgia, Louisiana, Mississippi, Missouri, North Carolina, Oklahoma, South Carolina, Tennessee, and Texas. The experimental use permit was previously effective from April 18, 1989 to April 18, 1990; the permit is now effective from July 10, 1989 to July 10, 1990. A temporary tolerance for residues of the active ingredient in or on cottonseed has been established. (Dennis Edwards, Jr., PM 12, Rm. 202, CM#2, (703–557–2386))

52621–EUP–3. Issuance. Phero Tech Inc., 1140 Clark Drive, Vancouver, BC V5L 3K3. This experimental use permit allows the use of 18 pounds of the pheromone 4,6,6-trimethylbicyclo[3.1.1]hept-3-en-2-one on 300 acres of forestry to evaluate the control of mountain pine and western pine beetles. The program is authorized only in the State of Montana. The experimental use permit is effective from July 14, 1989 to October 1, 1990. (Phil Hutton, PM 17, Rm. 207, CM#2, (703–557–2690))

707–EUP–110. Renewal. Rohm and Haas Company, Agricultural Chemicals Registration and Regulatory Affairs, Independence Mall West, Philadelphia, PA 19105. This experimental use permit allows the use of 425 pounds of the herbicide oxyfluorfen on alfalfa to evaluate the control of weeds. The program is authorized only in the States of Arizona, California, Idaho, Oregon, and Washington. The experimental use permit was previously effective from November 1, 1987 to December 31, 1988; the permit is now effective from August 16, 1989 to December 31, 1989. A temporary tolerance for residues of the active ingredient in or on alfalfa has been established. (Joanne Miller, PM 23, Rm. 237, CM#2, (703–557–1830))

707–EUP–120. Issuance. Rohm and Haas Company, Agricultural Chemicals Registration and Regulatory Affairs, Independence Mall West, Philadelphia, PA 19105. This experimental use permit allows the use of 640 pounds of the herbicide 3',4'-dichloropropionanilide on 160 acres of rice to evaluate the control of various weeds. The program is authorized only in the States of Arkansas, Louisiana, Mississippi, Missouri, and Texas. The experimental use permit is effective from April 18, 1989 to April 18, 1990. A permanent tolerance for residues of the active ingredient in or on rice has been established (40 CFR 180.274). (Robert Taylor, PM 25, Rm. 245, CM#2, (703–557–1800))

Persons wishing to review these experimental use permits are referred to the designated product managers. Inquires concerning these permits should be directed to the persons cited above. It is suggested that interested persons call before visiting the EPA office, so that the appropriate file may be made available for inspection purposes from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

Authority: 7 U.S.C. 136.

Dated: December 15, 1989.

Anne E. Lindsay,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 90–488 Filed 1-9-90; 8:45 am]

BILLING CODE 6560–50–D

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirements Submitted to Office of Management and Budget for Review

December 29, 1989.

The Federal Communications Commission has submitted the following information collection requirements to the Office of Management and Budget for review and clearance under the Paperwork Reduction Act, as amended (44 U.S.C. 3501–3520).

Copies of the submissions may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037. Persons wishing to comment on these information collections should contact Eyvette Flynn, Office of Management and Budget, Room 3235 NEOB, Washington, DC 20503, (202) 395–3785. Copies of these comments should also be sent to the Commission.

FOR FURTHER INFORMATION CONTACT: Jerry Cowden, Federal Communications Commission, (202) 632–7513.

OMB Number: 3060–0273

Title: Section 94.43, Procedure for obtaining special temporary authority

Action: Extension

Respondents: State or local governments, businesses (including small businesses), and non-profit institutions

Frequency of Response: On occassion

Estimated Annual Burden: 125 responses; 125 hours total annual burden; 1 hour average burden per response

Needs and Uses: This information is used by the Commission to determine if the grant of a special temporary authority is warranted, and to allow the Commission to have certain minimum information about the station's characteristics should interference problems arise.

OMB Number: 3060–0290
Title: Section 90.517, Development operation—report of operation
Action: Extension
Respondents: State or local governments and businesses
Frequency of Response: On occasion
Estimated Annual Burden: 100 responses; 200 hours total annual burden; 2 hours average burden per response
Needs and Uses: Rule requires developmental authorization licensees to file a report indicating the usefulness of such developmental operations when requesting renewal or termination of developmental operations.

OMB Number: 3060–0301
Title: Section 94.113, Station Records (Private Microwave)
Action: Extension
Respondents: State or local governments, businesses (including small businesses), and non-profit institutions
Frequency of Response: Recordkeeping requirement
Estimated Annual Burden: 17,886 recordkeepers; 2,981 hours total annual burden; 10 minutes average burden per recordkeeper
Needs and Uses: This rule requires private microwave licensees to maintain station records that can be made available to FCC investigatory personnel on demand. These records are used, among other things, to solve interference problems.

OMB Number: 3060–0307
Title: Section 90.629(a), Extended implementation schedule
Action: Extension
Respondents: State or local governments, businesses (including small businesses), and non-profit institutions
Frequency of Response: On occasion
Estimated Annual Burden: 50 responses; 50 hours total annual burden; 1 hour average burden per response
Needs and Uses: This rule provides applicants in specified categories an extended period of time within which to construct their radio systems, upon a showing of need. Commission licensing personnel use the information to determine if the grant of an extended implementation schedule is warranted.

OMB Number: 3060–0312
Title: Section 94.27(a)(6), Application and standard forms
Action: Extension
Respondents: State or local governments, businesses (including small businesses), and non-profit institutions
Frequency of Response: On occasion
Estimated Annual Burden: 30 responses; 5 hours total annual burden; 10 minutes average burden per response
Needs and Uses: This rule requires licensees who contemplate assigning their microwave station authorization to another entity to provide written notification to the Commission so that the Commission may make a public interest determination pursuant to 47 U.S.C. 310(d).

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 90–505 Filed 1–9–90; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed; Jacksonville Port Authority Terminal Agreement, et al.

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.: 224–200314

Title: Jacksonville Port Authority Terminal Agreement
Parties: Jacksonville Port Authority Dravo Basic Materials Co., Inc. (Dravo)
Synopsis: The Agreement provides Dravo land rental as well as throughput cargo rates. Dockage and other services required will be assessed at tariff rates. The term of the Agreement is for 5 years.

Agreement No.: 224–200051–001

Title: Philadelphia Port Corporation Terminal Agreement
Parties: Philadelphia Port Corporation Tioago Fruit Terminal, Inc. (Tioaga)
Synopsis: The Agreement amends the basic agreement to: (1) remove Berth A of the Tioaga I terminal facility from the terms of the basic agreement; (2) reduce Tioaga's space in the Butler Building located at the Tioaga II terminal facility; and (3) make related rent adjustments and provide the basis of discussion for further adjustments.

Agreement No.: 224–010825–002

Title: City of Los Angeles Terminal Agreement
Parties: City of Los Angeles Evergreen Marine Corporation (Taiwan) Inc.
Synopsis: The Agreement modifies the basic agreement to increase (1) the size of the premises from 77.24 acres to 93.18 acres; (2) the minimum annual guarantee from six million six hundred three thousand three hundred sixty dollars ($6,603,360) to seven million six hundred twenty-three thousand five hundred twenty dollars (7,623,520); and (3) the revenue sharing breakpoint from four million five hundred fifty-one thousand nine hundred fifty dollars ($4,551,950) to five million eight hundred twenty-seven thousand one hundred fifty dollars ($5,827,150).

Agreement No.: 224–200313

Title: Philadelphia Port Corporation Terminal Agreement
Parties: Philadelphia Port Corporation America Transport Lines, Inc. (Amtrans)
Synopsis: The Agreement provides Amtrans with a non-exclusive preferential license to operate and use a portion of Tioga I Terminal and container freight station; and authority to subcontract with stevedoring companies for stevedoring services at the terminal. This Agreement supersedes and replaces the parties' prior agreement (Agreement No. 224–200223).

Agreement No.: 224–200250–001

Title: Port Authority of New York & New Jersey Terminal Agreement
Parties: Port Authority of New York & New Jersey Hanjin Container Lines, Ltd.
Synopsis: The Agreement extends the term of the basic agreement through calendar year 1990.

Agreement No.: 224–200217–001

Title: Port Authority of New York & New Jersey Terminal Agreement
Parties: Port Authority of New York & New Jersey OOCL–USA, Inc.
Synopsis: The Agreement extends the term of the basic agreement through calendar year 1990.

Agreement No.: 224–200216–001

Title: Port Authority of New York & New Jersey Terminal Agreement
Parties: Port Authority of New York & New Jersey Lykes Bros. Steamship Co., Inc.
Synopsis: The Agreement extends the term of the basic agreement through calendar year 1990.

Agreement No.: 224–200210–001

Title: Port Authority of New York & New Jersey Terminal Agreement
Parties: Port Authority of New York & New Jersey Hapag-Lloyd, Inc.
Synopsis: The Agreement extends the term of the basic agreement through calendar year 1990.

Agreement No.: 224–200206–001

Title: Port Authority of New York & New Jersey Terminal Agreement
Parties: Port Authority of New York & New Jersey Evergreen Line
Synopsis: The Agreement extends the term of the basic agreement through calendar year 1990.

Agreement No.: 224–200190–001

Title: Port Authority of New York & New Jersey Terminal Agreement
Parties: Port Authority of New York & New Jersey Mitsui OSK Lines (America) Inc.
Synopsis: The Agreement extends the term of the basic agreement through calendar year 1990.

Agreement No.: 224–200174–001

Title: Port Authority of New York & New Jersey Terminal Agreement
Parties: Port Authority of New York & New Jersey Maersk Line
Synopsis: The Agreement extends the term of the basic agreement through calendar year 1990.

Agreement No.: 224–200173–001

Title: Port Authority of New York & New Jersey Terminal Agreement
Parties: Port Authority of New York & New Jersey Bermuda Agencies, Ltd.
Synopsis: The Agreement extends the term of the basic agreement through calendar year 1990.

Agreement No.: 224–200172–001

Title: Port Authority of New York & New Jersey Terminal Agreement
Parties: Port Authority of New York & New Jersey Sea-Land Service, Inc.
Synopsis: The Agreement extends the term of the basic agreement through calendar year 1990.

Agreement No.: 224–200171–001

Title: Port Authority of New York & New Jersey Terminal Agreement
Parties: Port Authority of New York & New Jersey Gdynia America Line, Inc.
Synopsis: The Agreement extends the term of the basic agreement through calendar year 1990.

Agreement No.: 224–200161–001

Title: Port Authority of New York & New Jersey Terminal Agreement
Parties: Port Authority of New York & New Jersey Atlantic Container Line
Synopsis: The Agreement extends the term of the basic agreement through calendar year 1990.

By Order of the Federal Maritime Commission.

Dated: January 4, 1990.

Ronald D. Murphy,

Assistant Secretary.

[FR Doc. 90–508 Filed 1–9–90; 8:45 am]

BILLING CODE 6730–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 89C–0506]

Warner-Jenkinson Co.; Filing of Color Additive Petition for Diluents for Color Additive Mixtures

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Warner-Jenkinson Co. has filed a petition proposing that the color additive regulations be amended to provide for the safe use of disodium EDTA (disodium ethylenediaminetetraacetate), and calcium disodium EDTA (calcium disodium ethylenediaminetetraacetate) as diluents for use in color additive mixtures for use in food and ingested drugs.

FOR FURTHER INFORMATION CONTACT: Catherine J. Bailey, Center for Food Safety and Applied Nutrition (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 706(d)(1) (21 U.S.C. 376(d)(1))), notice is given that Warner-Jenkinson Co., 2526 Baldwin St., P.O. Box 14538, St. Louis, MO 63178–4538, has filed a petition (CAP 9CO218), proposing that 21 CFR part 73 of the color additive regulations be amended to provide for the safe use of disodium EDTA (disodium ethylenediaminetetraacetate), and calcium disodium EDTA (calcium disodium ethylenediaminetetraacetate) as diluents for use in color additive mixtures for use in food and ingested drugs.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: December 22, 1989.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 90–577 Filed 1–9–90; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 89F–0508]

Mitsubishi Kasei Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Mitsubishi Kasei Corp. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of sucrose fatty acid esters as texturizers in surimi-based fabricated seafood products.

FOR FURTHER INFORMATION CONTACT: Blondell Anderson, Center for Food Safety and Applied Nutrition (HFF–334), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202–426–9463.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that Mitsubishi Kasei Corp., 5–2, Marunouchi 2-chome, Chiyoda-ku, Japan, has filed a petition (FAP 0A4183), proposing that the food additive regulations be amended to provide for the safe use of sucrose fatty acid esters as texturizers in surimi-based fabricated seafood products.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: December 22, 1989.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 90-578 Filed 1-9-90; 8:45 am]

BILLING CODE 4160-01-M

Health Care Financing Administration

Region V—Chicago; Statement of Organization, Functions, and Delegations of Authority

Part F. of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services, Health Care Financing Administration (HCFA), (**Federal Register**, Vol. 46, No. 223, pp. 56927–56928, dated Thursday, November 19, 1981; Vol. 48, No. 196, pp. 46446–46447, dated Wednesday, October 12, 1983; Vol. 52, No. 178, pp. 34849–34850, dated Tuesday, September 15, 1987; Vol. 53, No. 139, pp. 27401–27402, dated Wednesday, July 20, 1988, Vol. 53, No. 195, pp. 39525–39526, dated Friday, October 7, 1988; Vol. 54, No. 92, pp. 20925–20926, dated Monday, May 15, 1989; Vol. 54, No. 95, pp. 21476–21479, dated Thursday, May 18, 1989; Vol. 54, No. 102, pp. 22955–22956, dated Tuesday, May 30, 1989; Vol. 54, No. 163, p. 35248, dated Thursday, August 24, 1989; Vol. 54, No. 192, pp. 41167–41168, dated Thursday, October 5, 1989; and Vol. 54, No. 205, pp. 43500–43501, dated Wednesday, October 25, 1989) is amended to reflect a reorganization within Region V, Office of the Associate Administrator for Operations (AAO). The regional office is reorganizing from a functional structure to a programmatic structure with respect to the administration of the Medicaid and Medicare programs. The reorganization abolishes the current Division of Program Operations and the Division of Financial Operations and replaces them with the Division of Medicaid and the Division of Medicare. The reorganization of Region V completes the transition from a functional structure to a programmatic structure in all ten of HCFA's regional offices.

The specific amendments to part F. are described below:

- Section FP.10.D., Office of the Regional Administrator (FPD(I–X)) (Organization) is amended as follows:

The Office of the Regional Administrator, under the leadership of the Regional Administrator, is comprised of the following organizational components: 1. Division of Health Standards and Quality (FPD(I–X)A), 2. Division of Medicaid (FPD(I–X)E, and 3. Division of Medicare (FPD(I–X)F).

- Section FP.20.D., Office of the Regional Administrator (Functions), is deleted in its entirety and replaced by a revised set of functional statements. The revised functional statements are as follows:

D. Office of the Regional Administrator (FPD(I–X))

The Office of the Regional Administrator is the principal official for regional operations of the Health Care Financing Administration (HCFA). Provides executive leadership and guidance on behalf of the Associate Administrator, Operations, HCFA, to all components at the regional level. Implements national policy at the regional level. Assures the effective administration of all HCFA programs including Medicare, Medicaid, Peer Review Organizations (PROs), quality control, and certification of institutional providers in a major georgraphical area. Participates in the formulation of new policy and recommends changes in existing national policy for all HCFA programs. Develops and implements a professional relations program within the region for all HCFA programs and serves as the principal HCFA contact for all professional organizations such as hospital and medical associations. At the regional level, takes action to implement HCFA national initiatives undertaken to integrate HCFA program operations and is responsible for coordination of HCFA programs with other departmental components and Federal agencies. Coordinates with the Department's Principal Regional Official to assure effective relationships with State and local governments. Manages all administrative activities for HCFA components and coordinates such activities with the Regional Administrative Support Center. Initiates and directs the implementation of special regional and headquarters projects affecting all HCFA programs. Directs regional responsibilities relating to experimental and demonstration projects. Oversees a beneficiary services program within the region for all HCFA programs. Provides regional perspective to the Administrator, Associate Administrators, Bureau Directors, and Staff Office Directors in the development of HCFA policies, programs, and objectives.

1. Division of Health Standards and Quality (FPD(I–X)A)

Under the direction of the HCFA Regional Administrator, the Division of Health Standards and Quality assures that health care services provided under Medicare and Medicaid are furnished in the most effective and efficient manner consistent with recognized professional standards of care. Serves as the regional focus for assuring accountability to health care. Serves as the regional focus for assuring accountability to health care consumers for the quality of health care services. Participates in the formulation and development of health standards and quality policies and programs; interprets and implements health safety standards and evaluates their impact on the utilization and quality of health care services. Ensures appropriate review and application of conditions of participation for providers and suppliers of health services under Medicare and Medicaid and other related Federal programs. Exercises authority for approval, denial, and termination of all provider/supplier certification actions under the Medicare program. Makes final determination on all initial budget requests submitted by State survey agencies. Exercises authority on all fiscal matters relating to section 1864, Medicare State Survey Agency Agreements. Resolves conflicts involving the State survey agency and professional review and medical review organizations. Oversees, monitors, and evaluates the Medicaid State agency, State survey agencies, and professional review and medical review organizations. Maintains liaison with organizations representing health care professionals, providers of health care services, and program beneficiaries. Participates in the conduct of national studies and conducts comprehensive regional reviews by selectively evaluating indicators of policy or operational weaknesses to provide information concerning the effectiveness and cost implications of HCFA policy and operational decisions. Corrdinates State and contractor responsibilities and activities related to sanctions, civil money penalties, and other Office of the Inspector General activities. Recommends corrective action within functional areas of responsibility including Federal/State statutory and regulatory changes to central office and States respectively. Interprets and implements policies and procedures for review and utilization control programs under the Social Security Act and other Federal programs. Oversees the negotiation and award of grants and the operation of local professional review and medical review organizations. Performs regional responsibilities relating to experimental and demonstration projects. Develops and implements a program of liaison with

organizations representing health care professionals and providers of health care services and assumes responsibility for associated program training. Provides current feedback to central office on operations, activities, and problems. Provides regional perspective in the development of central office policies, objectives, and work plans. Monitors and assesses performance and provides technical assistance to end-stage renal disease networks by overseeing financial management and compliance with program policies and regulations and ensures coordination with States and local planning agencies and peer review organizations.

5. Divisidon of Medicaid (FPD(I–X)E)

Under the direction of the HCFA Regional Administrator, plans, manages, and provides Federal leadership to State agencies in program implementation, maintenance, and the regulatory review of State Medicaid program management activities under Title XIX of the Social Security Act and assures the propriety of Federal expenditures. Provides consultation and guidance to States on appropriate matters including interpretation of Federal requirements, options available to States under these requirements, and information on practices in other States. Maintains day-to-day liaison with State agencies and monitors their Medicaid program activities and practices by conducting periodic program management and financial reviews to assure State adherence to Federal law and reglations. Reviews, approves, and maintains official State plans and plan amendments for medical asistance. Provides consultation to States on Freedom of choice waivers; reviews and provides comments to the central office on waiver requests; and monitors the approved waiver requests. Provides consultation to States on the administration of the amount, duration, scope, and payment of health services available under the State program. Monitors, reviews, and approves (after central office concurrence for hospitals and long-term care facilities) State payment systems and determines the allowability or nonallowability of claims for Federal financial participation; and where State expenditures have not been in accordance with Federal requirements, takes action to disallow such claims. Stimulates States action toward achievement of selected program objectives and monitors their progress. Reviews States' quarterly statements of expenditures and recommends appropriate action on amounts claimed. Defers payment action on questionable State claims, reviews the claims for allowability, and recommends appropriate action. Issues orders suspending FFP on behalf of State payments to Title XIX provider institutions and the revocation of such suspension orders. Supports, evaluates, and provides advice on State management information and claims payment systems Implements Title XIX special initiatives, such as prepaid health plans, health maintenance organizations, and other special or experimental programs, and operations of major management initiatives. Administers regional quality control programs, provides input to contractor and State performance evaluations, and identifies situations that warrant investigation and/or corrective action. Where appropriate, provides an opportunity for State input to operation plans, policy, regulations, legislation, and budget formulation. Responds to beneficiary, congressional, provider, and public inquiries concerning Medicaid issues and takes appropriate action on individual case situations. Accepts and responds to Freedom of Information Act requests and on matters concerning the Privacy Act. Supports HCFA headquarters in activities concerning research and demonstration projects.

6. Division of Medicare (FPD(I–X)(F)

Under the direction of HCFA Regional Administrator, assures the effective administration of the Medicare program through the day-to-day working relationship with Medicare contractors, providers, physicians, the Social Security Administration (SSA) regional officer and district office personnel, elements of the Office of Inspector General, and other organizations and individuals concerned with program operations. Assures the continuing surveillance and appraisal of Medicare contractors in the administration of health insurance provisions. Monitors contractor overpayment identification and collection activities. Monitors beneficiary overpayment identification and collection activities for amount up to $20,000; prepares overpayment cases for submission to the General Accounting Office (GAO) for collection and/or to the Department of Justice for possible litigation. In coordination with quality control staff, as appropriate, identifies problems and initiates action to ensure contractor adherence to national Medicare policy and procedures. Directs Medicare regional financial management activities. Directs a program of in-depth reviews to evaluate the effectiveness of the Medicare program. Conducts quality assurance programs and onsite performance appraisals and analyses statistical performance reports. Negotiates and approves contractor budget modifications to budget allotments and final cost settlements. Coordinates day-to-day contractor financial management activities. Reviews and approves certain subcontracts and leases, monitors banking activities, and evaluates the cost allocation procedures of contractors. Conducts contractor appraisals. Interprets HCFA's institutional payment policies. Relates appropriately to elements of SSA, providing consultation on Medicare program matters and any other activity necessary to achieve program objectives. Provides direction to Medicare contractors in carrying out their responsibilities for interfacing with peer review organizations. Establishes and maintains liaison with organizations representing health care professionals, providers of health care services, and program beneficiaries. Takes necessary action on matters relating to the Freedom of Information Act and the Privacy Act. Performs regional responsibilities relating to experimental and demonstration projects. Assumes responsibility for program training and assures timely responses to congressional and pubic inquiries. Relates appropriately to central office components such as providing feedback on operations, activities, and problems, and by providing regional perspectives in the development of Agency policies, objectives, and work plans. In coordination with the Division of Medicaid, handles inter-program activities such as the Medicare buy-in for Medicaid beneficiaries.

Dated: Junary 2, 1990.

Robert A. Streimer,

Associate Administrator for Management.

[FR Doc. 90–583 Filed 1–9–90; 8:45 am]

BILLING CODE 4120–03–M

National Institute of Health

National Institute on Aging; Meeting of the National Advisory Council on Aging

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the National Advisory Council on Aging, National Institute on Aging (NIA), on February 6–7, 1990, in Building 31, Conference Room 6, National Institutes of Health, Bethesda, Maryland. This meeting will be open to the public on Tuesday, February 6, from 10:30 a.m. until 12:45 p.m. for a Status Report by the Director, National Institute on Aging and a report on the Biomedical Research

and Clinical Medicine Program. It will again be open to the public on Wednesday, February 7 from 8:30 a.m. until adjournment for reports on the Working Group on Program; NIA Public Information Office; Task Force on Minority Aging; the Epidemiology, Demography and Biometry Program; and for discussions of program policies and issues, recent legislation, and other items of interest. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), title 5 U.S.C. and sec. 10(d) of Public Law 92–463, the meeting of the Council will be closed to the public on February 6 from 1:45 p.m. to recess for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commerical property such as patentable material and personal information concerning individuals associated wih the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. June McCann, Council Secretary for the National Institute on Aging, National Institutes of Health, Building 31, Room 5C02, Bethesda, Maryland 20892, (301/496–9322), will provide a summary of the meeting and a roster of committee members upon request.

(Catalog of Federal Domestic Assistance Program No. 13.866, Aging Research, National Institutes of Health)

Dated: January 2, 1990.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 90–625 Filed 1–9–90; 8:45 am]

BILLING CODE 4140–01–M

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Meeting of Microbiology and Infectious Diseases Research Committee

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Microbiology and Infectious Diseases Research Committee, National Institute of Allergy and Infectious Diseases, on February 15–16, 1990, in Building 31C, Conference Room 9, at the National Institutes of Health, Bethesda, Maryland 20892.

The meeting will be open to the public from 8:30 a.m. to 10:30 a.m. on February 15, to discuss administrative details relating to committee business and for program review. Attendance by the public will be limited to space available. In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and sec. 10(d) of Public Law 92–463, the meeting will be closed to the public for the review, discussion, and evaluation of individual grant applications and contract proposals from 10:30 a.m. until recess on February 15, and from 8:30 a.m. until adjournment on February 16. These applications, proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Patricia Randall, Office of Research Reporting and Public Response, National Institute of Allergy and Infectious Diseases, Building 31, Room 7A32, National Institutes of Health, Bethesda, Maryland 20892, telephone (301–496–5717), will provide a summary of the meeting and a roster of the committee members upon request.

Dr. Olivia T. Preble, Executive Secretary, Microbiology and Infectious Diseases Research Committee, NIAID, NIH, Westwood Building, Room 3A10, Bethesda, Maryland 20892, telephone (301–496–8208), will provide substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.855, Pharmacological Sciences; 13.856, Microbiology and Infectious Diseases Research, National Institutes of Health)

Dated: January 2, 1990.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 90–618 Filed 1–9–90; 8:45 am]

BILLING CODE 4140–01–M

Division of Research Resources; Meetings of the Subcommittees of the Animal Resources Review Committee

Pursuant to Public Law 92–463, notice is hereby given of meetings of the Subcommittees of the Animal Resources Review Committee, Division of Research Resources, National Institutes of Health.

These meetings will be open to the public as listed below for a brief staff presentation on the current status of the Animal Resources Program and the selection of future meeting dates. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92–463, the meetings will be closed to the public as listed below for the review, discussion and evaluation of individual grant applications submitted to the Animal Resources Program. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Subcommittee: Subcommittee on Animal Resources

Dates of Meeting: March 1–2, 1990

Place of Meeting: National Institutes of Health, 9000 Rockville Pike, Building 31, C Wing, Conference Room 8, Bethesda, MD 20892

Open: March 1—8:00 a.m.–9:00 a.m.

Closed: March 1—9:00 a.m.–Recess; March 2—8:00 a.m.–Adjournment

Name of Subcommittee: Subcommittee on Primate Research Centers

Dates of Meeting: March 8–9, 1990

Place of Meeting: National Institutes of Health, 9000 Rockville Pike, Building 31, C Wing, Conference Room 6, Bethesda, Maryland 20892

Open: March 8—8:00 a.m.–9:00 a.m.

Closed: March 8—9:00 a.m.–Recess; March 9—8:00 a.m.–Adjournment

Mr. Michael Fluharty, Public Affairs Specialist, Division of Research Resources, Westwood Building, Room 857, 5333 Westbard Avenue, Bethesda, Maryland 20892, (301) 496–5545, will provide a summary of the meeting and a roster of the committee members upon request.

Dr. Arthur D. Schaerdel, Executive Secretary of the Animal Resources Review Committee, Division of Research Resources, National Institutes of Health, Westwood Building, Room 10A/16, Bethesda, Maryland 20892, (301) 496–4390, will furnish substantive program information upon request.

(Catalog of Federal Domestic Assistance Programs No. 13.306, Laboratory Animal Sciences, National Institutes of Health)

Dated: January 2, 1990.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 90–611 Filed 1–9–90; 8:45 am]

BILLING CODE 4140–01–M

Meeting of the Arthritis and Musculoskeletal and Skin Diseases Special Grants Review Committee

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Arthritis and Musculoskeletal and Skin Diseases Special Grants Review Committee (AMS) of the National Institute of Arthritis and Musculoskeletal and Skin Diseases on

March 1 and 2, 1990, Guest Quarters Hotel, 7335 Wisconsin Avenue, Bethesda, Maryland. The meeting will be open to the public on March 1 from 8 p.m. to 8:30 p.m. to discuss administrative details or other issues relating to the committee activities. Attendance by the public will be limited to space available. Notice of the meeting room will be posted in the hotel lobby.

The meeting will be closed to the public from 8:30 p.m. on March 1 to adjournment on March 2 in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and sec. 10(d) of Public Law 92–463, for the review, discussion and evaulation of individual research grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Further information concerning this meeting may be obtained from Dr. Melvin E. Gottlieb, Executive Secretary, Arthritis and Musculoskeletal and Skin Diseases Special Grants Review Committee, NIAMS, Westwood Building, Room 5A07, Bethesda, Maryland 20892, (301) 496–0754.

Mrs. Carole Frank, Committee Management Officer, National Institute of Arthritis and Musculoskeletal and Skin Diseases, National Institutes of Health, Building 31, Room 4C27, Bethesda, Maryland 20892, 301–496–0803, will provide summaries of the meeting and roster of the committee members upon request.

(Catalog of Federal Domestic Assistance Program No. 13.846, project grants in arthritis, musculoskeletal and skin diseases research, National Institutes of Health.

Dated: January 2, 1990.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 90–619 Filed 1–9–90; 8:45 am]

BILLING CODE 4140–01–M

National Cancer Institute; Meeting of the Biometry and Epidemiology Contract Review Committee

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Biometry and Epidemiology Contract Review Committee, National Cancer Institute, National Institutes of Health, January 22–23, 1990, Executive Plaza North, Conference Room J, 6130 Executive Boulevard, Rockville, Maryland 20852.

This meeting will be open to the public on January 22 from 9 a.m. to 10 a.m. to discuss administrative details. Attendance by the public will be limited to space available.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92–463, the meeting will be closed to the public on January 22 from 10 a.m. to recess and on January 23 from 9 a.m. to adjournment for the review, discussion and evaluation of individual contract proposals. These proposals and the discussions could reveal confidential trade secrets or commercial property such a patentable material and personal information concerning individuals associated with the proposals, disclosure of which would constitute a clearly unwarranted invasions of personal privacy.

Mrs. Winifred Lumsden, the Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20892 (301/496–5708) will provide summaries of the meeting and rosters of committee members upon request.

Dr. Harvey P. Stein, Executive Secretary, Biometry and Epidemiology Contract Review Committee, 5333 Westbard Avenue, Room 804, Bethesda, Maryland 20892 (301/496–7030) will furnish substantive program information.

Dated: January 2, 1990.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 90–612 Filed 1–9–90; 8:45 am]

BILLING CODE 4140–01–M

National Cancer Institute; Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Cancer Biology-Immunology Contracts Review Committee, National Cancer Institute, National Institutes of Health, January 22–24, 1990, Executive Plaza North, Conference Room H, 6120 Executive Boulevard, Rockville, Maryland 20892.

This meeting will be open to the public on January 22 from 9 a.m. to 10 a.m. to discuss administrative details. Attendance by the public will be limited to space available.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92–463, the meeting will be closed to the public on January 22 from 10 a.m. to recess; January 23 from 8:30 a.m. to recess and January 24 from 8:30 a.m. to adjournment for the review, discussion and evaluation of individual contract proposals. These proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the proposals, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred Lumsden, the Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20892 (301/496–5708) will provide a summary of the meeting and a roster of committee members upon request.

Dr. Lalita D. Palekar, Executive Secretary, Developmental Therapeutics Contracts Review Committee, 5333 Westbard Avenue, Room 805, Bethesda, Maryland 20892 (301/496–7575) will furnish substantive program information.

Dated: January 2, 1990.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 90–613 Filed 1–9–90; 8:45 am]

BILLING CODE 4140–01–M

Meeting of the National Advisory Child Health and Human Development Council

Pursuant to Public Law 92–463, notice is hereby given of meeting of the National Advisory Child Health and Human Development Council, January 29–30, 1990 in Building 31, Conference Room 6, National Institutes of Health, Bethesda, Maryland, and the meeting of the Subcommittee on Planning on January 29 from 8:30 a.m. to 9:30 a.m. in Building 31, Room 2A03.

The Council meeting will be open to the public on January 29 from 9:30 a.m. until 5:00 p.m. The agenda includes a report by the Director, NICHD, and an overview of appropriations process. The meeting will be open on January 30 immediately following the review of applications if any policy issues are raised which need further discussion. The Subcommittee meeting will be open on January 29 from 8:30 a.m. to 9:30 a.m. to discuss program plans and the agenda for the next Council meeting. Attendance by the public will be limited to space available.

In accordance with the provision set forth in secs. 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and sec. 10(d) of Public Law 92–463, the meeting will be closed to the public on January 30 from 8:30 a.m. to completion of the review, discussion, and evaluation of individual

grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Mary Plumner, Council Secretary, NICHD, Executive Plaza North, Room 520, National Institutes of Health, Bethesda, Maryland 20892, Area Code 301, 496–1485, will provide a summary of the meeting and a roster of Council members as well as substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.864, Population Research, and 13.865, Research for Mothers and Children, National Institutes of Health).

Dated: January 2, 1990.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 90–620 Filed 1–9–90; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Dental Research; Meeting of NIDR Special Grants Review Committee

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Special Grants Review Committee, National Institute of Dental Research, February 27–28 and March 1, 1990, in the Guest Quarters Hotel, 7335 Wisconsin Avenue, Bethesda, Maryland 20814. The Committee will meet in the Montgomery Room. The meeting will be open to the public from 9 a.m. to 9:30 a.m. on February 27 for general discussions. Attendance by the public is limited to space available.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on February 27 from 9:30 a.m. to recess, on February 28 from 9 a.m. to recess, and on March 1 from 9 a.m. to adjournment for the review, discussion and evaluation of individual grant applications. The applications and the discussions could reveal confidential trade secrets or commercial property, such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Rose Marie Petrucelli, Executive Secretary, NIDR Special Grants Review Committee, NIH, Westwood Building, Room 519, Bethesda, MD 20892, (telephone 301/496–7658) will provide a summary of the meeting, roster of committee members and substantive program information upon request.

(Catalog of Federal Domestic Assistance Program Nos. 13.121–Diseases of the Teeth and supporting Tissues: Caries and Restorative Materials; Periodontal and Soft Tissues: Caries and Restorative Materials; Periodontal and Soft Tissue Diseases; 13–122–Disorders of Structure, Function, and Behavior: Craniofacial Anomalies, Pain Control, and Behavioral Studies; 13–845–Dental Research Institute; National Institutes of Health.)

Dated: January 2, 1990.

Betty J. Beveridge

Committee Management Officer, NIH

[FR Doc. 90–621 Filed 1–9–90; 8:45 am]

BILLING CODE 4140–01–M

Meeting of the National Diabetes and Digestive and Kidney Diseases Advisory Council and its Subcommittees

Pursuant to Public Law 92–463, notice is hereby given of a meeting of the National Diabetes and Digestive and Kidney Diseases Advisory Council and its subcommittees, National Institute of Diabetes and Digestive and Kidney Diseases, on February 7–8, 1990, Wilson Hall, Building 1, National Institutes of Health, Bethesda, Maryland. The meeting will be open to the public February 7, from 8:30 a.m. to 12 noon and again on February 8 from 1 p.m. to adjournment to discuss administrative details relating to Council business and special reports. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92–463, the subcommittee and full Council meeting will be closed to the public for the review, discussion and evaluation of individual grant applications. The following subcommittees will be closed to the public on February 7 from 1 p.m. to recess: Diabetes, Endocrine and Metabolic Diseases; Digestive Diseases and Nutrition; and Kidney, Urologic and Hematologic Diseases. The full Council meeting will be closed on February 8 from 8:30 a.m. to approximately 12 noon.

These deliberations could reveal confidential trade secrets or commercial property, such as patentable materials, the personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Further information concerning the Council meeting may be obtained from Dr. Walter Stolz, Executive Secretary, National Diabetes and Digestive and Kidney Diseases Advisory Council, NIDDK, Westwood Building, Room 657, Bethesda, Maryland 20892, (301) 496–7277.

A summary of the meeting and roster of the members may be obtained from the Committee Management Office, NIDDK, Building 31, Room 9A19, National Institutes of Health, Bethesda, Maryland 20892, (301) 496–6917.

(Catalog of Federal Domestic Assistance Program No. 13.847–849, Diabetes, Endocrine and Metabolic Diseases; Digestive Diseases and Nutrition; and Kidney Diseases, Urology and Hematology Research, National Institutes of Health

Dated: January 2, 1990.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 90–622 Filed 1–9–90; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Environmental Health Sciences; Meeting of National Advisory Environmental Health Sciences Council

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the National Advisory Environment Health Sciences Council, January 25–26, 1990, at the National Institute of Environmental Health Sciences, Building 101 Conference Room, South Campus, Research Triangle Park, North Carolina.

This meeting will be open to the public on January 25 from 9 a.m. to approximately 2 p.m. for the report of the Director, NIEHS, and for discussion of the NIEHS budget, program policies and issues, recent legislation, and other items of interest. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92–463, the meeting will be closed to the public January 25, from approximately 2 p.m. to adjournment on January 26, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Winona Herrel, Committee Management Officer, NIEHS, Bldg. 31, Rm. 2B55, NIH, Bethesda, Md. 20892 (301) 496–3511, will provide summaries of the meeting and rosters of council members.

Dr. Anne Sassaman, Director, Division of Extramural Research and Training, NIEHS, P.O. Box 12233, Research Triangle Park, North Carolina 27709, (919) 541–7723, FTS 629–7723, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos 13.112, Characterization of Environmental Health Hazards; 13.113, Biological Response to Environmental Health Hazards; 13.114, Applied Toxicological Research and Testing; 13.115, Biometry and Risk Estimation; 13.894, Resource and Manpower Development, National Institutes of Health)

Dated: January 2, 1990.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 90–624 Filed 1–9–90; 8:45 am]

BILLING CODE 4140–01–M

National Institutes of Health (NIH)

National Eye Institute (NEI); Meeting of the National Advisory Eye Council (NAEC) and the Vision Research Program Planning Subcommittee (VRPPS)

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the NAEC and the VRPPS, NEI, January 29–30, 1990, Building 31C, Conference Room 9, National Institutes of Health, Bethesda, Maryland.

The VRPPS will meet on Monday, January 29, 1990, from 1:00 p.m. until approximately 4:30 p.m. and is open to the public. The meeting of the full NAEC will be open to the public from 8:30 a.m. until approximately 11:30 a.m. on Tuesday, January 30. Following opening remarks by the Director, NEI, there will be presentations by the staff of the Institute concerning Institute programs and various research assistance mechanisms. Attendance by the public at the open sessions will be limited to space available.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C. and section 10(d) of Public Law 92–463, the meeting of the full NAEC will be closed to the public from approximately 11:30 a.m. until adjournment on January 30 for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Lois DeNinno, Committee Management Officer, National Eye Institute, Building 31, Room 6A08, National Institutes of Health, Bethesda, Maryland 20892, (301) 496–9110, will provide a summary of meeting, roster of committee members, and substantive program information upon request.

(Catalog of Federal Domestic Assistance Programs, Nos. 13.867, Retinal and Choroidal Diseases; 13.868, Anterior Segment Diseases Research; and 13.871, Strabismus, Amblyopia and Visual Processing; National Institutes of Health.)

Dated: January 2, 1990.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 90–615 Filed 1–9–90; 8:45 am]

BILLING CODE 4140–01–M

Meetings of the National Heart, Lung, and Blood Advisory Council and Its Research Subcommittee and Training Subcommittee

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the National Heart, Lung, and Blood Advisory Council, National Heart, Lung, and Blood Institute, February 8–9, 1990, National Institutes of Health, 9000 Rockville Pike, Building 31, Conference Room 10, Bethesda, Maryland 20892. In addition, the Research Subcommittee and the Training Subcommittee of the above Council will meet together on February 7, in Building 31, Conference Room 9.

The Council meeting will be open to the public on February 8 from 9 a.m. to approximately 3:30 p.m. for discussion of program policies and issues. Attendance by the public is limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5, U.S.C., section 10(d) of Public Law 92–463, the Council meeting will be closed to the public from approximately 3:30 p.m. on February 8 to adjournment on February 9 for the review, discussion and evaluation of individual grant applications. The meetings of the Research Subcommittee and the Training Subcommittee of the above Council on February 7, will be closed from 1 p.m. to adjournment for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Terry Bellicha, Chief, Communications and Public Information Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20892, (301) 496–4236, will provide a summary of the meeting and a roster of the Council members.

Ms. Arlene Zimmerman, Executive Secretary, National Heart, Lung, and Blood Advisory Council, Westwood Building, Room 7A–15, National Institutes of Health, Bethesda, Maryland 20892, (301) 496–7548, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.837, Heart and Vascular Diseases Research; 13.838, Lung Diseases Research; and 13.839, Blood Diseases and Resources Research, National Institutes of Health)

Dated: January 2, 1990.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 90–616 Filed 1–9–90; 8:45 am]

BILLING CODE 4140–01–M

National Heart, Lung, and Blood Institute; Meeting of the Clinical Trials Review Committee

Pursuant to Public Law 94–463, notice is hereby given of the meeting of the Clinical Trials Review Committee, National Heart, Lung, and Blood Institute, February 25–28, 1990, Guest Quarters Suite Hotel, 7335 Wisconsin Avenue, Bethesda, Maryland 20814.

The meeting will be open to the public on February 25, from 6:30 p.m. to approximately 7:30 p.m. to discuss administrative details and to hear a report concerning the current status of the National Heart, Lung, and Blood Institute. Attendance by the public is limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5, U.S.C., and section 10(d) of Public Law 92–463, the meeting will be closed to the public on February 25, from approximately 7:30 p.m. to adjournment on February 28, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which

would constitute a clearly unwarranted invasion of personal privacy.

Ms. Terry Bellicha, Chief, Communications and Public Information Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A–21, National Institutes of Health, Bethesda, Maryland 20892, (301) 496–4236, will provide a summary of the meeting and a roster of the Committee members.

Dr. David M. Monsees, Jr., Contracts, Clinical Trials and Training Review Section, Division of Extramural Affairs, National Heart, Lung, and Blood Institute, Westwood Building, Room 550B, Bethesda, Maryland 20892, (301) 496–7361, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.837, Heart and Vascular Diseases Research; 13.838, Lung Diseases Research; 13.839, Blood Diseases and Resources Research, National Institutes of Health)

Dated: January 2, 1990.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 90–617 Filed 1–9–90; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Diabetes and Digestive and Kidney Diseases; Meetings of Subcommittees B, C, and D of the Diabetes and Digestive and Kidney Diseases Special Grants Review Committee

Pursuant to Public Law 92–463, notice is hereby given of meetings of Subcommittees B, C, and D of the National Diabetes and Digestive and Kidney Diseases Special Grants Review Committee, National Institute of Diabetes and Digestive and Kidney Diseases (NIDDK).

These meetings will be open to the public to discuss administrative details at the beginning of the first session of the first day of the meetings. Attendance by the Public will be limited to space available. Notice of the meeting rooms will be posted in the hotel lobby.

These meetings will be closed to the public as indicated below in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92–463, for the review, discussion, and evaluation of individual research grant applications. Discussion of these applications could reveal confidential trade secrets or commercial property, such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Edith Wynkoop, Committee Management Officer, National Institute of Diabetes and Digestive and Kidney Diseases, National Institutes of Health, Building 31, Room 9A19, Bethesda, Maryland 20892, 301–496–6917, will provide summaries of the meetings and rosters of the committee members upon request. Other information pertaining to the meetings can be obtained from the Executive Secretary indicated.

Name of Committee: National Diabetes and Digestive and Kidney Diseases Special Grants Review Committee, Subcommittee B.

Executive Secretary: Judith M. Podskalny, Westwood Building, Room 421A, National Institutes of Health, Bethesda, Maryland 20892, Phone: 301–496–7583

Dates of Meeting: March 21–22, 1990.

Place of Meeting: Guest Quarters, 7335 Wisconsin Avenue, Bethesda, Maryland 20814.

Open: March 21, 7:30 a.m.–8:00 a.m.

Closed: March 21, 8:00 a.m. to recess, March 22, 7:30 a.m. to adjournment.

Name of Committee: National Diabetes and Digestive and Kidney Diseases Special Grants Review Committee, Subcommittee C.

Executive Secretary: Tommie Sue Tralka, Westwood Building, Room 404B, National Institutes of Health, Bethesda, Maryland 20892, Phone: 301–496–8830.

Dates of Meeting: March 12–13, 1990.

Place of Meeting: Holiday Inn Crowne Plaza, 1750 Rockville Pike, Rockville, Maryland 20852.

Open: March 12, 8:30 a.m.–9:30 a.m.

Closed: March 12, 9:30 a.m. to recess, March 13, 8:30 a.m. to adjournment.

Name of Committee: National Diabetes and Digestive and Kidney Diseases Special Grants Review Committee, Subcommittee D.

Executive Secretary: Ann A. Hagan, Westwood Building, Room 417A, National Institutes of Health, Bethesda, Maryland 20892, Phone: 301–496–7841.

Dates of Meeting: February 9, 1990.

Place of Meeting: Guest Quarters, 7335 Wisconsin Avenue, Bethesda, Maryland 20814.

Open: February 9, 8:00 a.m.–8:30 a.m.

Closed: February 9, 8:30 a.m. to adjournment.

Dated: January 2, 1990.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 90–623 Filed 1–9–90; 8:45 am]

BILLING CODE 4140–01–M

Division of Research Grants; Meetings

Pursuant to Public Law 92–463, notice is hereby given of the meetings of the following study sections for January through March 1990, and the individuals from whom summaries of meetings and rosters of committee members may be obtained.

These meetings will be open to the public to discuss administrative details relating to study section business for approximately one hour at the beginning of the first session of the first day of the meeting. Attendance by the public will be limited to space available. These meetings will be closed thereafter in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92–463, for the review, discusssion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Office of Committee Management, Division of Research Grants, Westwood Building, National Institutes of Health, Bethesda, Maryland 20892, telephone 301–496–7534 will furnish summaries of the meetings and rosters of committee members. Substantive program information may be obtained from each executive secretary whose name, room number, and telephone number are listed below each study section. Since it is necessary to schedule study section meetings months in advance, it is suggested that anyone planning to attend a meeting contact the executive secretary to confirm the exact date, time and location. All times are a.m. unless otherwise specified.

Study section	January-March 1990 meetings	Time	Location
Allergy & Immunology Mr. Howard M. Berman, Rm. 320, Tel. 301–496–7380	Mar. 2–4	8:30	Casa Sirena Hotel, Oxnard, CA

Study section	January-March 1990 meetings	Time	Location
Bacteriology & Mycology-1 Dr. Timothy J. Henry, Rm. 306, Tel. 301-496-7340	Feb. 14-16	8:30	Guest Quarters, Bethesda, MD
Bacteriology & Mycology-2 Dr. William Branche, Jr., Rm. 306, Tel. 301-496-7682	Feb. 14-16	8:30	Crowne Plaza, Rockville, MD
Behavioral Medicine Dr. Joan Rittenhouse, Rm. 438, Tel. 301-496-7109	Feb. 14-16	8:00	Omni Georgetown Hotel, Washington, DC
Biochemical Endocrinology Dr. Michael Knecht, Rm. 226, Tel. 301-496-7430	Feb. 7-9	8:30	Holiday Inn, Bethesda, MD
Biochemistry-1 Dr. Adolphus P. Toliver, Rm. 3188, Tel. 301-496-7516	Feb. 28-Mar. 3	8:30	River Inn, Washington, DC
Biochemistry-2 Dr. Alex Liacouras, Rm. 318A, Tel. 301-496-7517	Feb. 21-23	8:30	Hyatt Arlington Hotel, Arlington, VA
Bio-Organic & Natural Products Chemistry Dr. Harold Radkte, Rm. 2A07, Tel. 301-496-7107	Feb. 15-17	9:00	Holiday Inn, Georgetown, DC
Biophysical Chemistry Dr. John B. Wolff, Rm. 236B, Tel. 301-496-7070	Feb. 15-17	8:30	NIH, Room 8, Bldg. 31C, Bethesda, MD
Bio-Psychology Dr. A. Keith Murray, Rm. 220, Tel. 301-496-7058	Feb. 13-15	9:00	The Savoy Suites Hotel, Washington, DC
Cardiovascular & Pulmonary Dr. Gordon L. Johnson, Rm. 439A, Tel. 301-496-7316	Feb. 28-Mar. 2	8:00	Holiday Inn Crowne Plaza, Rockville, MD
Cardiovascular & Renal Dr. Rosemary Morris, Rm. 321, Tel. 301-496-7901	Feb. 12-14	8:30	Hyatt Regency, Bethesda, MD
Cellular Biology and Physiology-1 Dr. Gerald Greenhouse, Rm. 336, Tel. 301-496-7396	Feb. 13-15	8:00	American Inn, Bethesda, MD
Cellular Biology and Physiology-2 Dr. Gerhard Ehrenspeck, Rm. 304, Tel. 301-496-7681	Feb. 28-Mar. 2	8:30	Ramada Inn, Taos, Mexico
Chemical Pathology Dr. Edmund Copeland, Rm. 353, Tel. 301-496-7078	Feb. 21-23	8:00	Hyatt Regency, Bethesda, MD
Diagnostic Radiology Dr. Catharine Wingate, Rm. 219B, Tel. 301-496-7650	Feb. 28-Mar. 2	8:30	Omni Georgetown Hotel, Washington, DC
Endocrinology Dr. Harry Brodie, Rm. 333, Tel. 301-496-7346	Feb. 12-14	8:30	Hyatt Regency, Bethesda, MD
Epidemiology & Disease Control-1 Dr. Sooja Kim, Rm. 203C, Tel. 301-496-7246	Feb. 7-9	8:30	Omni Shoreham Hotel, Washington, DC
Epidemiology & Disease Control-2 Dr. Horace Stiles, Rm. 340, Tel. 301-496-7246	Feb. 7-9	8:30	Omni Shoreham Hotel, Washington, DC
Experimental Cardiovascular Sciences Dr. Richard Peabody, Rm. 234, Tel. 301-496-7940	Feb. 14-16	8:00	Hyatt Regency, Bethesda, MD
Experimental Immunology Dr. Calbert Laing, Rm. 222B, Tel. 301-496-7238	Mar. 2-4	8:30	Casa Sirena Hotel, Oxnard, CA
Experimental Therapeutics-1 Dr. Philip Perkins, Rm. 221, Tel. 301-496-7839	Feb. 14-16	8:00	One Washington Circle Hotel, Washington, DC
Experimental Therapeutics-2 Dr. Marcia Litwack, Rm. 2A03, Tel. 301-496-8848	Mar. 1-2	8:30	Holiday Inn, Chevy Chase, MD
Experimental Virology Dr. Garrett V. Keefer, Rm. 206, Tel. 301-496-7474	Feb. 26-28	8:30	NIH, Room 8, Bldg. 31C, Bethesda, MD
General Medicine A-1 Dr. Harold Davidson, Rm. 354A, Tel. 301-496-7797	Feb. 26-28	8:30	NIH, Room 7, Bldg. 31C, Bethesda, MD
General Medicine A-2 Dr. Mushtaq Khan, Rm. 354B, Tel. 301-496-7140	Feb. 21-23	8:30	NIH, Room 6, Bldg. 31C, Bethesda, MD
General Medicine B Dr. Daniel McDonald, Rm. 322, Tel. 301-496-7730	Feb. 12-14	8:00	Holiday Inn Crowne Plaza, Rockville, MD
Genetics Dr. David Remondini, Rm. 349, Tel. 301-496-7271	Feb. 15-17	9:00	NIH, Room 7, Bldg. 31C, Bethesda, MD
Hearing Research Dr. Joseph Kimm, Rm. 1A03, Tel. 301-496-7494	Feb. 12-14	8:30	St. James Hotel, Washington, DC
Hematology-1 Dr. Clark Lum, Rm. 355A, Tel. 301-496-7508	Feb. 15-17	8:00	Hyatt Regency, Bethesda, MD
Hematology-2 Dr. Jerrold Fried, Rm. 355B, Tel. 301-496-7508	Feb. 21-23	8:30	Guest Quarters, Bethesda, MD
Human Development & Aging-1 Dr. Teresa Levitin, Rm. 303, Tel. 301-496-7025	Feb. 21-23	9:00	Guest Quarters, Bethesda, MD
Human Development & Aging-2 Dr. Louis Quatrano, Rm. 305, Tel. 301-496-7640	Feb. 7-9	9:00	Omni Georgetown Hotel, Washington, DC
Human Development & Aging-3 Dr. Anita Sostek, Rm. 2A05, Tel. 301-496-8814	Feb. 11-14	8:30	Omni Shoreham Hotel, Washington, DC
Human Embryology & Development Dr. Arthur Hoversland, Rm. 319A, Tel. 301-496-7597	Feb. 26-27	8:00	Holiday Inn, Bethesda, MD
Immunobiology Dr. William Stylos, Rm. 222A, Tel. 301-496-7780	Mar. 2-4	8:30	Casa Sirena Hotel, Oxnard, CA
Immunological Sciences Dr. Anita Corman Weinblatt, Rm. 233A, Tel. 301-496-7179	Mar. 2-4	8:30	Casa Sirena Hotel, Oxnard, CA
Mammaloan Genetics Dr. Jerry Roberts, Rm. 349, Tel. 301-496-7271	Jan. 28-30	8:30	Tamarron Resort, Tamarron, CO
Medicinal Chemistry Dr. Ronald Dubois, Rm. 2A07, Tel. 301-496-7107	Feb. 21-23	8:30	Hyatt Regency, Bethesda, MD
Metabolic Pathology Dr. Marcelina Powers, Rm. 435, Tel. 301-496-5251	Feb. 18-20	8:00	Shawnee Resort Hotel, Miami Beach, FL
Metabolism Dr. Krish Krishnan, Rm. 339A, Tel. 301-496-7091	Feb. 14-16	8:30	Holiday Inn, Chevy Chase, MD

Study section	January-March 1990 meetings	Time	Location
Metallobiochemistry Dr. Edward Zapolski, Rm. 310, Tel. 301-496-7733	Feb. 15-17	8:30	River Inn, Washington, DC
Microbial Physiology & Genetics-1 Dr. Martin Slater, Rm. 238, Tel. 301-496-7183	Feb. 21-23	8:30	Holiday Inn Crowne Plaza, Rockville, MD
Microbial Physiolgy & Genetics-2 Dr. Gerald Liddel, Rm. 357, Tel. 301-496-7130	Feb. 14-16	8:30	Hyatt Regency, Bethesda, MD
Molecular & Cellular Biophysics Dr. Patricia Jost, Rm. 236A, Tel. 301-496-7060	Feb. 15-17	8:30	One Washington Circle Hotel, Washington, DC
Molecular Biology Dr. Zain Abedin, Rm. 328, Tel. 301-496-7830	Feb. 15-17	8:30	Guest Quarters, Bethesda, MD
Molecular Cytology Dr. Ramesh Nayak, Rm. 233B, Tel. 301-496-7149	Feb. 15-17	8:30	Holiday Inn Crowne Plaza, Rockville, MD
Neurological Sciences-1 Dr. Allen C. Stoolmiller, Rm. 437B, Tel. 301-496-7279	Feb. 14-16	8:00	Marbury House, Georgetown, DC
Neurological Sciences-2 Dr. Stephen Gobel, Rm. 1A05, Tel. 301-496-8808	Feb. 13-15	8:30	Holiday Inn, Bethesda, MD
Neurology A Dr. Katherine Woodbury, Rm. 303A, Tel. 301-496-7506	Feb. 26-28	8:30	The Savoy Suites Hotel, Washington, DC
Neurology B-1 Dr. Jo Ann McConnell, Rm. 152, Tel. 301-496-7846	Feb. 12-16	8:30	Hotel Washington, Washington, DC
Neurology B-2 Dr. Herman Teitelbaum, Rm. 152, Tel. 301-496-7422	Feb. 20-22	8:30	The Savoy Suites Hotel, Washington, DC
Neurology C Dr. Kenneth Newrock, Rm. 232, Tel. 301-496-5591	Feb. 14-16	8:30	Omni Georgetown Hotel, Washington, DC
Nursing Research Dr. Gertrude McFarland, Rm. A18, Tel. 301-496-0558	Feb. 26-28	8:30	Holiday Inn, Bethesda, MD
Nutrition Dr. Ai Lien Wu, Rm. 204, Tel. 301-496-7178	Feb. 12-14	8:30	NIH, Room 8, Bldg. 31C, Bethesda, MD
Oral Biology & Medicine-1 Dr. J. Terrell Hoffeld, Rm. 325, Tel. 301-496-7818	Feb. 6-9	8:30	Holiday Inn Old Town, Alexandria, VA
Oral Biology & Medicine-2 Dr. J. Terrell Hoffeld, Rm. 325, Tel. 301-496-7818	Feb. 1-4	8:30	Holiday Inn, New Orleans, LA
Orthopedics & Musculoskeletal Ms. Ileen Stewart, Rm. 350, Tel. 301-496-7581	Feb. 21-23	8:30	Hyatt Regency, Bethesda, MD
Pathobiochemistry Dr. Zakir Bengali, Rm. A26, Tel. 301-496-7820	Feb. 21-23	8:30	The Pavilion Hotel, Rockville, MD
Pathology A Dr. Houston Baker, Rm. 337, Tel. 301-496-7305	Feb. 27-Mar. 2	7:00 p.m.	Ramada Inn, Taos, Mexico
Pathology B Dr. Martin Padarathsingh, Rm. 352, Tel. 301-496-7244	Feb. 4-6	8:00	Bahia Resort Hotel, San Diego, CA
Pharmacology Dr. Joseph Kaiser, Rm. 206, Tel. 301-496-7408	Feb. 21-23	8:30	American Inn, Bethesda, MD
Physical Biochemistry Dr. Gopa Rakhit, Rm. 218B, Tel. 301-496-7120	Feb. 22-24	8:30	Holiday Inn Crowne Plaza, Rockville, MD
Physiological Chemistry Dr. Stanley Burrous, Rm. 339B, Tel. 301-496-7837	Feb. 22-24	8:00	Holiday Inn, Georgetown, DC
Physiology Dr. Michael A. Lang, Rm. 209, Tel. 301-496-7878	Feb. 14-16	8:30	Ramada Inn, Bethesda, MD
Radiation Dr. Paul Strudler, Rm. 219A, Tel. 301-496-7073	Feb. 26-28	8:30	Westin Hotel, Washington, DC
Reproductive Biology Dr. Dharam Dhindsa, Rm. 307, Tel. 301-496-7318	Feb. 12-14	8:30	Holiday Inn, Bethesda, MD
Reproductive Endocrinology Dr. Abubakar A. Shaikh, Rm. 325B, Tel. 301-496-8857	Feb. 5-7	8:00	Holiday Inn Crowne Plaza, Rockville, MD
Respiratory & Applied Physiology Dr. Nathan Watzman, Rm. 340, Tel. 301-496-7248	Feb. 12-13	8:30	Holiday Inn, Bethesda, MD
Sensory Disorders & Language Dr. Michael Halasz, Rm. 1A03, Tel. 301-496-7550	Feb. 14-16	8:30	Capitol Holiday Inn Hotel, Washington, DC
Social Sciences & Population Ms. Carol Campbell, Rm. 210, Tel. 301-496-7906	Feb. 8-10	9:00	Omni Shoreham Hotel, Washington, DC
Surgery & Bioengineering Dr. Paul F. Parakkal, Rm. 322, Tel. 301-496-7027	Feb. 5-6	8:00	Holiday Inn, Bethesda, MD
Surgery, Anesthesiology & Trauma Dr. Keith Kraner, Rm. 319B, Tel. 301-496-7771	Feb. 21-23	1:00p.m.	Ramada Inn, Bethesda, MD
Toxicology Dr. Alfred Marozzi, Rm. 205, Tel. 301-496-7570	Feb. 27-Mar. 2	8:00	Ramada Inn, Bethesda, MD
Tropical Medicine & Parasitology Dr. Jean Hickman, Rm. 334, Tel. 301-496-1190	Feb. 11-14	8:30	Holiday Inn, Bethesda, MD
Virology Dr. Belinda Seto, Rm. 309, Tel. 301-496-7605	Feb. 21-23	8:00	Holiday Inn Crowne Plaza, Rockville, MD
Visual Sciences A-1 Dr. Anita Suran, Rm. 207, Tel. 301-496-7000	Mar. 7-9	8:00	Ramada Inn, Bethesda, MD
Visual Sciences A-2 Dr. Jane Hu, Rm. 439A, Tel. 301-496-7795	Feb. 21-23	8:30	Holiday Inn, Georgetown, DC
Visual Sciences B Dr. Leonard Jakubczak, Rm. 325, Tel. 301-496-7251	Feb. 21-23	8:30	Omni Georgetown Hotel, Washington, DC

(Catalog of Federal Domestic Assistance Programs Nos. 13.306, 13.333, 13.337, 13.393–13.396, 13.837–13.844, 13.846–13.878, 13.892, 13.893, National Institutes of Health, HHS)

Dated: January 2, 1990.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 90–626 Filed 1–9–90; 8:45 am]

BILLING CODE 4140–01–M

Division of Research Resources; Meeting of the National Advisory Research Resources Council

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the National Advisory Research Resources Council (NARRC), Division of Research Resources (DRR), on February 8–9, 1990, at the National Institutes of Health, Conference Room 6, Building 31C, 9000 Rockville Pike, Bethesda, Maryland 20892.

This meeting will be open to the public on February 8, from 9 a.m. until recess and from 8:30 a.m. until approximately 11 a.m. on February 9, during which time there will be discussions on administrative matters such as previous meeting minutes; the Report of the Acting Director, DRR; and review of budget and legislative updates. Attendance by the public will be limited to space available.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5, U.S. Code and section 10(d) of Public Law 92–463, the meeting will be closed to the public on February 9 from approximately 11 a.m. until adjournment for the review, discussion and evaluation of individual grant applications.

The applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. Michael Fluharty, Public Affairs Specialist, DRR, Westwood Building, Room 857, National Institutes of Health, Bethesda, Maryland 20892, 301/496–5545, will provide summary of the meeting and a roster of the Council members upon request. Dr. James F. O'Donnell, Deputy Director, DRR, Westwood Building, Room 8A16, National Institutes of Health, Bethesda, Maryland 20892, 301/496–6023, will furnish substantive program information upon request, and will receive any comments pertaining to this announcement.

(Catalog of Federal Domestic Assistance Program Nos. 13.306, Laboratory Animal Sciences and Primate Research; 13.333, Clinical Research; 13.337, Biomedical Research Support; 13.371, Biomedical Research Technology; Biomedical Research Support Advisory Committee; 13.389 Research Centers in Minority Institutions, National Institutes of Health)

Dated: January 2, 1990.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 90–627 Filed 1–9–90; 8:45 am]

BILLING CODE 4140–01–M

Social Security Administration

State of Organization, Functions and Delegations of Authority

Part S of the Statement of Organization, Functions and Delegations of Authority for the Department of Health and Human Services (HHS) covers the Social Security Administration (SSA). Chapter S2 covers the Office of the Deputy Commissioner for Operations. Subchapter S2E covers the Office of Central Processing. Section S2EB covers the Office of Systems Operations. Notice is hereby given that Section S2EB.10 and S2EB.20 are being amended to reflect changes in the organizational designations and functional responsibilities for the Office of Computer Processing Operations (S2EBA) and the Office of Systems Support and Planning (S2EBB), and the formal establishment of division level components under the Office of Network Management (S2EBC). These changes are a result of the consolidation and transfer of telecommunications and networking functions from the Office of Computer Processing Operations and the Office of Systems Support and Planning to the Office of Network Management. The new material and changes are as follows:

Section S2EB.10 The Office of Systems Operations—(Organization):

Subsection D. The Office of Computer Processing Operations (S2EBA).

3. The Division of Computer Operations Systems Software (S2EBA3). Change Title to: The Division of Operational Support Software (S2EBA3).

Delete:

4. The Division of Telecommunications Systems Operations (S2EBA4).

5. The Division of Integration and Environmental Testing (S2EBA5).

Subsection F. The Office of Network Management (S2EBC).

Add:

1. The Division of Integration and Environmental Testing (S2EBC1).

2. The Division of Network Systems Operations (S2EBC2).

3. The Division of Network Teleprocessing Systems Software (S2EBC3).

Section S2EB.20 The Office of Systems Operations—(Functions):

Subsection D. The Office of Computer Processing Operations (S2EBA).

1. The Division of Production Systems Operations (S2EBA1).

Replace all existing functions with the following:

a. Operates the centralized Office of Systems Operations (OSO) computer facility which includes computer systems hardware and associated peripheral equipment.

b. Schedules day-to-day workflow for the automated data processing (ADP) facility within plans and priorities established by the Office of Computer Processing Operations, Division of Computer Operations Production Control.

c. Controls the flow of materials into ADP production jobs. Reviews production results for accuracy and completeness.

2. The Division of Computer Operations Production Control (S2EBA2).

Replace all existing functions with the following:

a. Manages the production workload of OSO and administers effective resource utilization.

b. Manages and directs the automated magnetic media processes and directs the activity of the magnetic tape library function. Serves as the focal point for management of all magnetic media storage resources, both internal and external to the Agency.

Participates in the design reviews of proposed application systems to assure operational support and control aspects are being considered. Analyzes applications systems to assure compliance with systems standards. Approves applications systems for production status and incorporates them into the production library. Before acceptance of any new batch applications, performs preproduction testing to minimize unexpected impacts to existing schedules and to ensure the most optimum use of existing data center resources.

d. Represents OSO in User Service Agreement negotiations and measures

compliance against committed service levels. Serves as the central contact point in OSO for all customer complaints and questions regarding production processing.

e. Maintains the integrity, manages and performs required recovery of all oeprational data, data media, tape and direct access for systems.

3. The Division of Computer Operations Systems Software (S2EBA3).

Change title to: The Division of Operational Support Software (S2EBA3).

Replace all existing functions with the following:

a. Directs the analysis, design, development, implementation and maintenance of computer operating systems and utility software in support of programmatic and management information workloads for SSA's central data processing center.

b. Designs, develops, implements and operates production control ADP systems which supervise library controls, automates the scheduling and allocates the production workload.

c. Directs the design, development, implementation and maintenance of information systems software in support of the central data processing center's problem, change and configuration management systems.

d. Supports the user liaison and systems development activities of other OSO components in the resolution of technical and operational problems.

Delete:

4. The Division of Telecommunications System Operations (S2EBA4).

5. The Division of Integration and Environmental Testing (S2EBA5).

Subsection E. The Office of Systems Support and Planning (S2EBB).

1. The Division of Operational Capacity Performance Management (S2EBB1).

Replace all existing functions with the following:

a. Evaluates computer performance and monitors resource utilization to ensure that OSO's operational computer systems capacity is utilized effectively and efficiently. Prepares recommendations to OSO management and as directed, performs similar functions for other SSA components.

b. Ensures that sufficient ADP capacity is available to process present and future workloads, coordinating decisions on target systems for new/modified workloads and systems configuration changes.

c. In conjunction with other Deputy Commissioner for Operations' components, develops an ADP Capacity Plan for 1-, 2- and 5-year timeframes. Ensures that OSO's systems performance objectives are being met and that data bases are efficiently implemented.

d. Provides advice and services to other OSO components in the use of computer interpretation of reports and data resulting from evaluation and utilization studies.

e. Uses operational research tools to investigate operational efficiency problems and develop workload and utilization relationships.

2. The Division of Standards and Control (S2EBB2).

Replace all existing functions with the following:

a. Develops, publishes and implements standards and mandatory systems procedures within OSO. Develops and controls enforcement mechanisms to ensure adherence to operational standards. Administers the Federal and HHS systems standards program within OSO.

b. Directs the planning, implementation and evaluation of the systems security program in OSO under HHS and SSA privacy and security policies.

c. Serves as OSO liaison with other SSA components in matters of privacy and security. Provides for the security of all OSO resources in the centralized OSO computer boundaries established by the Deputy Commissioner for Management.

d. Provides planning, evaluation and oversight on disaster recovery capabilities in order to maintain continuity of data center operations. Develops, implements and evaluates systems and procedures for the security and protection of data.

e. Formulates an OSO-wide Systems Plan and assigns responsibility to OSO components for various parts of the Plan. Works with OSO components to evaluate their proposed systems objectives in terms of technical feasibility, availability of resources and systems costs. Identifies the major OSO activities and resources needed to support these objectives. Directs and coordinates the OSO technical workpower, equipment and other special costs for the SSA budget process and justifies these on the basis of the ADP plan.

f. Coordinates OSO activities related to the SSA ADP Plan. Directs the preparation of detailed project plans including resource estimates for projects of which OSO has the lead. Monitors progress and use of workpower and equipment resources by OSO components against their approved plans. Develops standard methods for project management and assists OSO components in their use.

g. Manages the OSO technical training program. Assesses needs, and formulates and executes strategies to upgrade individual knowledge and skill levels.

h. Performs systems analysis, configuration design, software selection, implementation and procurement support for microcomputers, minicomputers and computer graphics systems and equipment for various components of OSO. Provides state-of-the-art technical expertise including the evaluation of new and existing office systems activities and provides support for enhancements, modifications, design and/or redesign. Research and analyze emerging office systems developments to ensure technology awareness and provide supporting systems development, design, planning and implementation. Provides office systems training support within OSO.

3. The Division of Operational Resource Management (S2EBB3).

Add:

m. Provides technical support to OSO and other SSA components during major procurement activities. Performs technical review of procurement proposals for Information Technology Systems (ITS) resources. Ensures that procurement documentation complies with directives published by SSA and higher monitoring authorities. Provides recommendations for disposition of procurement proposals for ITS resources.

Subsection F. The Office of Network Management (S2EBC).

Add:

1. The Division of Integration and Environmental Testing (S2EBC1).

a. Directs and controls all activities with the release of new or enhanced versions of host programmatic and telecommunications-related software. Enforces software acceptance and certifications standards. Directs the initial staging of program modules to be tested, including generation of executable code.

b. Develops and maintains extensive test data bases for use in the acceptance, integration and environmental testing processes. Develops and incorporates the use of software simulators and emulators in software acceptance testing.

c. Directs the integration testing of new or enhanced communications host software, remote network/terminal and microprocessor software and network communications software. Participates in the movement and/or migration of

software systems and associated data files between complexes and processing components.

d. Directs environmental testing to ensure that new or enhanced software is compatible with changing hardware configurations. Directs the integration of new or enhanced SSA programmatic software. Administers the generation of finalized testing results for evaluation. Directs software performance evaluations, parallel testing, timing studies, inter/intrasystem relationship and testing trend analysis.

e. Responsible for administering ADP hardware integration and acceptance testing.

f. Provides the checks and balances on SSA's ADP systems and equipment procurement for complying with contractual performance requirements throughout the life cycle of the procurement.

g. Directs the design, development and implementation of software to gather and report statistical information on the functioning of telecommunications networks. Distributes the information to other SSA components to report on network performance and equipment utilization.

2. The Division of Network Systems Operations (S2EBC2).

a. Directs the operations of SSA's telecommunications network facilities for the transmission of program and management data over SSA-established networks.

b. Manages traffic flow between the telecommunications complex and other SSA computers. Monitors telecommunications operations, analyzes equipment problems and effects proper maintenance and repair.

c. Directs the implementation of new or revised operating policies and procedures. Recommends new procedures and appraises telecommunications operating instructions, centrally and in the field.

d. Implements standards for controlling workflow and for assuring the integrity of data processed through the various data communications operations.

e. Acts as liaison with common carriers and network equipment vendors to maintain operational effectiveness of equipment.

f. Directs the operational performance evaluation of SSA's data communications systems.

g. Provides technical expertise and assistance on data communications procurement and other SSA systems modernization projects.

h. Designs and implements security software for SSA's telecommunications network, and ensures that related procedures are followed by technical personnel.

i. Manages the installation, removal and relocation of local and remote telecommunications facilities, assuring compliance with governing Federal regulations.

j. Operates integrated control center, centrally and at the remote network nodes, to provide a point of contact for field offices reporting equipment or operational problems.

k. Conducts ongoing analyses of network design configurations and workloads, and initiates changes to the network topology to optimize cost/performance.

l. Reviews standards and procedures for applications developers in interfacing to SSA's data communications network. Evaluates requested or propose applications for impact on network resources.

m. Maintains and controls an inventory of all remote data communications equipment which assesses SSA's telecommunications networks, and the history and status of equipment outages for all SSA-owned or leased data communications equipment.

n. Assigns, maintains and provides to data communications systems users, telecommunications site routing codes and terminal identifiers consistent with Governmentwide network addressing conventions.

o. Conducts investigations and analyses of systems problems affecting local and remote users of the data communications networks, and provides liaison with regional staffs in identifying and correcting chronic problems and trends.

3. Division of Network Teleprocessing Systems Software (S2EBC3).

a. Directs the design, development, testing and continuing support of specialized data communications control software used to support SSA's data communications systems.

b. Supports the user liaison and systems development activities of other OSO components in the resolution of technical and operational problems.

c. Manages telecommunications software changes to ensure compatibility with hardware modifications for Central Office and the Program Service Centers.

d. Fromulates policy for data base applications software systems and monitors and optimizes performance of that software.

e. Directs the installation of data center telecommunications support software that interfaces to the operating systems.

f. Participates in the establishment of standards with appropriate OSO and other SSA systems organizations for using networking, teleprocessing monitor, and data base packages within the SSA Network environment.

g. Directs the planning, analysis, and design of specialized software systems for providing information relevent to the development of existing and proposed data communications systems.

h. Directs the design, analysis and evaluation of vendor-supplied telecommunications software for applicability and use in the data communications system supported by OSO.

John R. Dyer,

Deputy Commissioner for Management.

[FR Doc. 90-584 Filed 1-9-90; 8:45 am]

BILLING CODE 4190-11-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Policy Development and Research

[Docket No. N-90-2098; FR-2722]

Establishment of an Advisory Commission on Regulatory Barriers to Affordable Housing

AGENCY: Office of the Assistant Secretary for Policy Development and Research.

ACTION: Notice of intent to establish an Advisory Commission.

SUMMARY: HUD is establishing a Commission on Regulatory Barriers to Affordable Housing pursuant to the Federal Advisory Committee Act. The Commission will advise the Secretary on the nature and impact upon costs, of Federal, State and local regulations governing the construction of housing and present its findings as well as advisory recommendations as to possible remedial Federal, State and local actions to eliminate excessive, duplicative or unnecessary regulations that increase the cost of housing.

The Commission will continue in existence for a period of 12 months from the date its charter becomes effective, unless the Charter is sooner amended or revoked.

DATE: The charter of the Commission on Regulatory Barriers To Affordable Housing shall become effective on the date the Secretary of Housing and Urban Development files it with the Senate Committee on Banking, Housing, and Urban Affairs, and the House Committee on Banking, Finance and Urban Affairs, which are the standing committees of Congress having

legislative jurisdiction over the Department. Filing is expected to occur during the first half of January 1990.

FOR FURTHER INFORMATION CONTACT: David Engel, Office of Policy Development and Research, Room 8140, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington DC 20410. Telephone: (202) 755-4370. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: In accordance with the provisions of the Federal Advisory Committee Act (Pub. L. 92-463), and after consultation with the General Services Administration, the Secretary of Housing and Urban Development has determined that establishment of an Advisory Commission on Regulatory Barriers to Affordable Housing is in the public interest and in the performance of duties imposed on the Department by law. The Commission's Charter is being published with this notice.

The Commission shall advise the Secretary on the nature and impact upon costs, of Federal, State, and local legislation and regulations that govern the construction, rehabilitation, and management of single and multifamily housing. This review shall include, but not be limited to: zoning; impact fees; subdivision ordinances; standards; processing and permitting; rent control; codes and innovation; and, Federal and local governmental requirements. The Commission shall, through a final report to the Secretary, present its findings as well as advisory recommendations as to possible Federal, State and local actions that could be taken to eliminate or modify excessive, duplicative or unnecessary regulations that increase the cost of housing.

The Commission will consist of no more than 20 members with extensive knowledge and interest in the building regulatory process and its impact upon affordability. The Commission is to be appointed by the Secretary and will assure a balanced representation among elected and appointed public officials; recognized experts, and homebuilders with extensive knowledge of the regulatory process; and individuals with a concern for or representing the interests of low- or moderate-income housing consumers.

The Commission will function solely as an advisory body, and in compliance with the provisions of the Federal Advisory Committee Act. The Charter of the Commission will be filed with appropriate committees of the Congress and the Library of Congress and is available upon request.

The Commission will continue in existence for a period of 12 months from the date its charter becomes effective as provided in the Federal Advisory Commission Act, unless the charter is amended or revoked sooner. All the meetings of the Commission will be open to the public.

The time, place, and agenda for the first Commission meeting and for each subsequent meeting will be published in the **Federal Register** at least 15 days prior to the meeting. At the time the first meeting is announced, the names of the members of the Commission will be published.

Dated: January 5, 1990.

John C. Weicher,

Assistant Secretary for Policy Development and Research, United States Department of Housing and Urban Development.

Section 1. Purpose

This document establishes a charter for Secretary's Advisory Commission on Regulatory Barriers to Affordable Housing under the provisions of the Federal Advisory Committee Act (FACA) of 1972, as amended, Pub. L. 92-463, 5 U.S.C. App.

Section 2. Authority

The Commission is established by the Secretary pursuant to Title V of the Housing and Urban Development Act of 1970 (Pub. L. 91-609; 84 Stat. 1784; 12 U.S.C. 1701Z-1) and implements the determination of the Secretary of Housing and Urban Development to establish an Advisory Commission pursuant to the Federal Advisory Committee Act [FACA] of 1972, as amended, Pub. L. 92-463, 5 U.S.C. App.

Section 3. Objectives, Scope of Activities, and Duties

Construction of housing is governed by a broad range of Federal, state, and local statutes, ordinances, and regulations. Although most are enacted for valid public purposes, in many instances duplication and excessive standards and requirements needlessly inflate the costs of construction and rehabilitation thereby excluding many moderate and low-income families from homeownership and rental housing. In some instances, regulatory requirements are also used as a mechanism for economic and racial discrimination.

The Commission shall undertake a comprehensive assessment of the nature and status of prevailing state and local regulations governing construction and rehabilitation as well as applicable Federal regulations. This review shall include, but not be limited to: zoning; impact fees; subdivision ordinances; standards; processing and permitting; rental control; codes and innovation; and environmental requirements.

The Commission shall prepare a report to the Secretary which presents its findings on the degree to which regulations increase housing costs including recommendations as to appropriate state, local, as well as Federal, actions that the Commission recommends should be taken to remove or modify excessive, duplicative or unnecessary regulations and requirements.

Section 4. Membership

The Commission shall be composed of no more than twenty members and shall consist of individuals with extensive knowledge or interest in the building regulatory process and its impact upon the affordability of housing. The Commission, appointed by the Secretary to assure a balanced representation, shall consist of: elected and appointed officials with responsibility for the regulatory process; recognized experts, homebuilders and developers with extensive knowledge of residential construction and regulation; and, individuals with a concern for or representing the interests of low and moderate income families.

Section 5. Appointments

The Commission members shall be appointed by the Secretary to serve a term of 12 months from the effective date of the Charter. Members shall serve at the pleasure of the Secretary.

Section 6. Chairperson

The Chairperson shall be appointed by the Secretary and shall be responsible for:

a. Establishing the informal organization of the Commission and appointing any subcommittees as are deemed necessary;

b. Developing, with the advice and consent of the Commission, procedures for its effective and efficient operations;

c. Ensuring that procedures for public participation in Commission meeting are established in accordance with FACA;

d. Taking such other actions as may be required to facilitate the discharge of Commission duties.

Section 7. Commission Organization

The organization and agenda of the Commission shall be established at the first full meeting of the Commission on Regulatory Barriers to Affordable Housing. Once established, the organization of the Commission may be modified when deemed appropriate by the Chairperson. Any subcommittees appointed by the Chairperson shall be

subordinate and advisory to the full Commission. Such subcommittees may meet at such time and places as the subcommittee Chairperson has approved for the performance of Commission business. The results of all subcommittee meetings shall be reported to the full Committee for its review.

Section 8. Meetings

The Commission will meet at least once every three months for its duration. If the Chairperson deems it necessary, additional meetings and/or hearings may be convened at any location which is advantageous to the business of the Commission. All meetings and hearings of the Commission and any of its subcommittees shall convene under the following conditions:

a. A notice of each Commission or subcommittee meeting or hearing shall be published in the **Federal Register** at least 15 days in advance of the meeting. Shorter notice is permissible in cases of emergency, but the reason for such emergency must be reported in the notice.

b. Detailed minutes of each meeting or hearing of the Commission shall be kept, and their accuracy certified to by the Commission Chairperson and submitted to the Secretary of HUD and filed with the Departmental Committee Management Officer. The minutes shall include:

1. The time and place of the meeting or hearing;
2. A list of Commission members and staff and agency employees at the meeting or hearing;
3. A complete summary of matters discussed and the conclusions reached;
4. Copies of all reports received, issued or approved by the Commission;
5. A description of the extent to which the meeting was open to the public; and
6. A description of public participation, including a list of members of the public who attended the meeting or hearing.

c. An employee designated by the Secretary, or his designee, will attend every meeting of the Commission. The designated employee, or his designee, must call, or approve, each meeting and is authorized to adjourn any Commission meeting whenever he determines that adjournment is in the public interest.

Section 9. Support Services

The Assistant Secretary for Policy Development and Research, to the extent permitted by law and subject to the availability of funds, shall provide the Commission with adiminstrative services, funds, facilities, staff and other support as may be necessary for the effective performance of its functions.

Section 10. Estimated Support and Cost

The Department estimates that the operating cost of the Commission will not exceed $60,000. This does not include staff support costs which are estimated to be 6 staff years.

Section 11. Travel and Compensation

Members of the Commission will serve without compensation, but are entitled to be paid for travel and subsistence in the performance of duties on an actual expense basis, as authorized by 5 U.S.C. 5703(b).

Section 12. Reports

The Commission shall submit to the Secretary a final written report. This Report shall describe the findings of the Commission as to the nature and extent to which Federal, state and local legislation and regulations governing the construction, rehabilitation, or management of housing are excessive, duplicative or unnecessary and shall also include recommendations for any legislative, judicial or administrative actions which the Commission believes can relieve the regulatory burden upon housing construction, reduce costs, and expand affordability. The final report shall also include a description of the Commission's membership, functions, and other actions prior to its termination. From time to time the Commission may submit other additional reports which are deemed necessary to carry out its functions and responsibilities.

Section 13. Expiration

The Commission, established under this Charter, shall terminate 12 months after the charter is filed unless sooner extended.

Dated: December 15, 1989.

Approved:

Jack Kemp,

Secretary, Department of Housing and Urban Development.

[FR Doc. 90-632 Filed 1-9-90; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UT-020-00-4320-11]

Salt Lake District; Cedar Mountain Wilderness Study Area

ACTION: Notice of comment period on a draft environmental assessment ending 30 days from publication of this notice.

SUMMARY: The proposed action is to make a change in livestock use on the North Cedar Mountain Allotment. A small portion of this allotment (approximately 4,000 acres) is within the Cedar Mountain Wilderness Study Area, UT-020-094. Under the proposed action, BLM would convert one-half of the grazing preference (2,400 Animal Unit Months) from sheep use to cattle use. This action is in response to a change in vegetation due to past wildfires. The proposed action would likely reduce the amount of livestock use presently being made in the Wilderness Study Area.

FOR FURTHER INFORMATION CONTACT: Howard Hedrick, Bureau of Land Management, Salt Lake District Office, 2370 South 2300 West, Salt Lake City, Utah 84119, (801)-977-4300.

Deane Zeller,

District Manager.

[FR Doc. 90-571 Filed 1-9-90; 8:45 am]

BILLING CODE 4310-DQ-M

[INT DEIS 90-02; NV-010-00-7122-09-1101]

Availability of Draft Environmental Impact Statement on the Thousand Springs Power Plant Project in Northeastern Nevada

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of availability of draft environmental impact statement on the Thousand Springs Power Plant project in northeastern Nevada.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, notice is hereby given that the Bureau of Land Management, U.S. Department of the Interior has prepared, by a third party contractor, a draft environmental impact statement (DEIS) on the Thousand Springs Power Plant project in Northeastern Nevada, and has made copies of the document available for public review.

SUPPLEMENTARY INFORMATION: The Thousand Springs Generating Company, a consortium of investors, proposes to construct and operate a 2,000 megawatt, coal fired power plant consisting of eight 250 megawatt units to be built in response to market demand for electricity. The DEIS analyzes the environmental impacts that would result from a land exchange and the subsequent construction and operation of the power plant and alternatives. The exchange between the Bureau of Land Management and Thousand Springs Generating Company would involve approximately 15,960 acres of public land and approximately 13,340 acres of

private land. Issues involved include wildlife, air quality, ground and surface water quantity, socioeconomics, among others.

DATES: Written comments on the draft EIS will be accepted until March 12, 1990. Public hearings for oral and written testimony have been scheduled for the following dates, places, and times: (a) January 29th in Wells, Nevada in the Wells High School Auditorium on 115 Lake Avenue; 7:00 p.m.–9:00 p.m.; (b) January 30th in Elko, Nevada in the Elko Convention Center on 700 Moren Way; 7:00 p.m.–9:00 p.m.; (c) January 31st in Twin Falls, Idaho at the College of Southern Idaho, Shields Building, Room 118 on 315 Falls Avenue; 7:00 p.m.–9:00 p.m.; (d) February 1st in Reno, Nevada at the Holiday Inn on 1000 E. Sixth Street; 7:00 p.m.–9:00 p.m. and (e) February 5th in Salt Lake City, Utah at the State Department of Natural Resources Building, 1636 W. North Temple; 7:30 p.m.–9:30 p.m. Testimony concerning the issues will be accepted at these hearings. Interested individuals, representatives of organizations and public officials wishing to testify are requested to contact the District Manager for advance registration by 4:15 January 26, 1990.

ADDRESSES: A copy of the draft EIS and associated Technical Reports (Air Quality, Socioeconomic, Water Resources, Ecological Resources, Cultural Resources, Soils, and Air) can be obtained from: District Manager, Bureau of Land Management, ATTN: TSPP Coordinator, P.O. Box 831, Elko, NV 89801.

The draft EIS is available for inspection at the following locations: BLM State Offices in Reno and Salt Lake City; Carson City, Ely, Elko, and Twin Falls County Libraries; and the University of Nevada libraries in Reno and Las Vegas.

Written responses may be sent to the above address on or before close of business on March 12, 1990.

FOR FURTHER INFORMATION CONTACT: For additional information, write to the above address or call Nancy Phelps-Dailey at (702) 738–4071.

A copy of the Draft RMP/EIS will be sent to all individuals, agencies and groups who have expressed interest in the Thousand Springs Power Plant EIS process, and a limited number of copies are available upon request from the District Manager at the above address.

Fred Wolf,

Associate State Director, Nevada.

[FR Doc. 90–551 Filed 1–9–90; 8:45 am]

BILLING CODE 4310–HC–M

[CO–010–09–4142–02]

Craig, CO, Advisory Council Meeting

Time and Date: January 25, 1990, at 9 a.m.

Place: BLM—Craig district Office, 455 Emerson Street, Craig, Colorado.

Status: Open to public; interested persons may make oral statements at 10:30 a.m. Summary minutes of the meeting will be maintained in the Craig District Office.

Matters To Be Considered:

1. Election of officers
2. BLM's allocation of forage in wildlife/livestock conflict allotments
3. Public comments on wilderness EIS

Contact Person for more Information: Mary Pressley, Craig District Office, 455 Emerson Street, Craig Colorado 81625–1129, Phone: (303) 824–8261.

Dated: January 2, 1990.

William J. Pulford,

District Manager.

[FR Doc. 90–606 Filed 1–9–90; 8:45 am]

BILLING CODE 4310–JB–M

Fish and Wildlife Service

Fish and Wildlife Service Hydropower Policy; Public Comments Requested

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of request for public comments.

SUMMARY: This Notice advises the public that the Fish and Wildlife Service (Service) requests comments on the Service's role in the Federal Energy Regulatory Commission's (FERC) hydropower licensing program, as it relates to provisions of the Electric Consumers Protection Act of 1986 (Pub. L. 99–495). More specifically, comments are requested on the need for a Service-wide hydropower policy and on the scope and content of such a policy.

DATES: Written comments are encouraged and should be received by March 12, 1990.

ADDRESSES: Comments should be directed to: Director, U.S. Fish and Wildlife Service, 400 ARLSQ, 18th and C Streets, NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Frank DeLuise, Chief, Branch of Federal Activities, U.S. Fish and Wildlife Service, 400 ARLSQ, 18th and C Streets NW., Washington, DC 20240, (703) 358–2183 or FTS 921–2183.

SUPPLEMENTARY INFORMATION: In 1988, the Service issued a policy to guide Service biologists in their review of hydropower projects, in response to passage of the Electric Consumers Protection Act of 1986. Since that time, several questions have been raised regarding the need for and the content of that policy, as well as the role of public participation in that policy development process. Although such a policy is not subject to the rulemaking requirements of the Administrative Procedures Act, 5 U.S.C. 553, due to the Service's desire to be an effective participant in the hydropower development process and to provide the public with the opportunity for participation in the development of any such policy, the Service solicits comments on its participation in FERC's hydropower programs under the Federal Power Act, as amended by the Electric Consumers Protection Act of 1986. Specifically, the Service requests comments as to whether there is a need for a specific Service hydropower policy and if so, the scope and content of such a policy.

The Fish and Wildlife Service (Service) provides Federal leadership to protect and conserve fish and wildlife and their habitat. Under its legal authorities, the Service conducts fish and wildlife investigations to ascertain the extent and degree of impacts likely to result from development projects. These efforts are conducted in full partnership with State agencies responsible for fish and wildlife resources and the National Marine Fisheries Service. The recommendations of the Service are considered by Federal development and regulatory agencies for their adoption, as permitted by law.

The Electric Consumers Protection Act of 1986, which amended the Federal Power Act and the Public Utility Regulatory Policies Act, requires FERC to give the Service's recommendations concerning the protection, mitigation and enhancement of fish and wildlife resources and the preservation of other aspects of environmental quality, equal consideration along with power development and other purposes. It also requires FERC to include license conditions which are based on Service recommendations made pursuant to the Fish and Wildlife Coordination Act, unless the recommendations are determined by FERC to be inconsistent with the Federal Power Act or other applicable law.

The Service recognizes its role in ensuring that fish and wildlife concerns are adequately considered in the hydropower licensing process and is soliciting comments on how it can best achieve this mandate. All comments and suggestions will be considered and any revised or new policy will be submitted for public comment.

Dated: December 28, 1989.

Richard N. Smith,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 90–536 Filed 1–9–90; 8:45 am]

BILLING CODE 4310–55–M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 31575]

Chicago South Shore & South Bend Railroad Co.; Acquisition and Operation Exemption

Chicago South Shore & South Bend Railroad Co. (South Shore), a non-carrier, filed a notice of exemption to acquire and operate a 76.95-mile line of railroad owned by the Chicago South Shore and South Bend Railroad Co. (CSSSB) between milepost 0.9 near South Bend, IN and milepost 75.55 near Kensington, IL and between mileposts Mon. 0.0 and Mon. 2.3 in the Monon District near Michigan City, IN. The rail line was previously operated by CSSSB which filed for protection from creditors under Chapter 11 of the U.S. Bankruptcy Code on April 7, 1989. The transaction was expected to be consummated on or after December 29, 1989.

South Shore's common carrier obligation will be limited to providing freight service. Any and all passenger obligations on the rail line will be assumed by the Northern Indiana Commuter Transportation District (NICTD) [1] pursuant to the CSSSB reorganization plan approved by the presiding bankruptcy court and the notices of exemption filed by NICTD in Finance Docket No. 31576, *NICTD—Acq. and Oper. Exemp.—CSSSB,* and Finance Docket No. 31585, *NICTD—Trackage Rgts. Exemp.—South Shore.* NICTD received a 3-year option to purchase the rail line from South Shore subject to reservation of trackage rights should the option be exercised. South Shore will also acquire and grant trackage rights from and to various carriers. A list of these trackage rights is available at the Commission or from South Shore's representative.

Comments must be filed with the Commission and served on Kimberly A. Madigan, Weiner, McCaffrey, Brodsky & Kaplan, P.C., Suite 800, 1350 New York Avenue NW., Washington, DC 20005–4797.

South Shore must preserve intact all sites and structures 50 years old or older until completion of the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470. [2]

This notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Decided: January 3, 1990.

By the Commission, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 90–593 Filed 1–9–90; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 31576]

Northern Indiana Commuter Transportation District; Acquisition and Operation Exemption

Northern Indiana Commuter Transportation District (NICTD), a non-carrier, has filed a notice of exemption to acquire and operate the passenger rail franchise and related operating assets of the Chicago South Shore and South Bend Railroad Co. (CSSSB) for the purpose of preserving and maintaining CSSSB's daily commuter rail service between South Bend, IN and Chicago, IL. The transaction was expected to be consummated on or after December 29, 1989 to enable NICTD to commence passenger operations on Janaury 1, 1990.

NICTD's common carrier obligation will be limited to providing passenger rail service. Any and all obligations to transport freight will be assumed by the Chicago SouthShore & South Bend Railroad Co. (SouthShore) [1] pursuant to the CSSSB reorganization plan approved by the presiding bankruptcy court and the notice of exemption concurrently filed by SouthShore in Finance Docket No. 31575, *SouthShore—Acq. and Oper. Exemp.—CSSSB.* To operate the rail passenger service being acquired from CSSSB, NICTD filed a notice of exemption in Finance Docket No. 31585, *NICTS—Trackage Rts. Exemp.—SouthShore* to acquire trackage rights from SouthShore under the court-approved reorganization plan. NICTD also received a 3-year option to purchase the rail line subject to a reservation of trackage rights should the option be exercised.

Comments must be filed with the Commission and served on Kelvin J. Dowd, Slover & Loftus, 1224 Seventeenth Street NW., Washington, DC 20036.

NICTD must preserve intact all sites and structures 50 years old or older until completion of the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470.[2]

This notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Decided: January 4, 1990.

By the Commission, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 90–594 Filed 1–9–90; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 31585]

Northern Indiana Commuter Transportation District; Trackage Rights Exemption

Northern Indiana Commuter Transportation District (NICTD) filed a notice of exemption under 49 CFR 1180.2(d)(7) to acquire (1) trackage rights from the Chicago South Shore & South Bend Railroad Co. (South Shore) over its 74.65-mile line between Kensington, IL and South Bend, IN and 2.3-mile line in the Monon District near Michigan City, IN; and (2) approximately 54.5 miles of incidental South Shore trackage rights in the Chicago, IL area as described in the notice. South Shore acquired the lines and trackage rights from the estate of the Chicago South Shore and South Bend Railroad Co. (CSSSB) in Finance Docket No. 31575, *South Shore—Acq. & Oper. Exemp.—CSSSB,* published concurrently with this notice. NICTD intends to conduct and maintain CSSSB's former commuter rail service between South Bend, IN and Chicago, IL. It acquired CSSSB's passenger rail authority and related assets in Finance Docket No. 31576, *NICTD—Acq. & Oper. Exemp.—CSSSB,* also published concurrently with this notice. That transaction was to be consummated on

[1] *See* Finance Docket No. 31577, *Chicago South Shore & S. B. R. Co. and Northern Ind. Commuter Trans. Dist.—Pet. for Decl. Order—Com. Car. Obligation* (not printed), served December 29, 1989.

[2] South Shore certifies that it has identified to the appropriate State Historic Preservation Officers all sites and structures listed in the National Register of Historic Places and 50 years old or older that will be transferred as a result of the transaction.

[1] *See* Finance Docket No. 31577, *Chicago SouthShore & S. B. R. Co. and Northern Ind. Commuter Trans. Dist.—Pet. for Decl. Order—Com. Car. Obligation* (not printed), served December 29, 1989.

[2] NICTD certifies that it has identified to the appropriate State Historic Preservation Officers all sites and structures 50 years old or older that will be transferred as a result of the transaction.

or after December 28, 1989 to enable NICTD to commence commuter operations on January 1, 1990.

NICTD's common carrier obligation is limited to providing passenger rail service. Any and all obligations to transport freight have been assumed by South Shore [1] pursuant to CSSSB's reorganization plan and South Shore's exemption notice in Finance Docket No. 31575, *supra*.

This notice is filed under 49 CFR 1180.2(d)(7). Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction. Pleadings must be filed with the Commission and served on: Kelvin J. Dowd, Slover & Loftus, 1224 Seventeenth St., NW., Washington, DC 20036.

As a condition to the use of this exemption, any employees affected by the transaction will be protected pursuant of *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978) as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

Decided: January 4, 1990.

By the Commission, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 90-595 Filed 1-9-90; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Antitrust Division

Arizona State University; Advanced Helicopter Electromagnetic Industrial Associates Program

Notice is hereby given that, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), Arizona State University on November 27, 1989 filed a written notification, on behalf of the parties identified below, simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties to the following joint research and development venture: Advanced Helicopter Electromagnetics Industrial Associates Program, and (2) the nature and objectives of the joint research and development venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties to the joint research and development venture, and its general areas of planned activities, are given below:

The identity of the parties to the Industrial Associates Program are as follows:

1. Arizona Board of Regents for and on behalf of Arizona State University ("University")
2. United Technologies Corporation, Sikorsky Aircraft Division
3. Rockwell International, Collins Defense Communications
4. McDonnell Douglas Helicopter Company

The nature and objectives of the Industrial Associates Program are as follows:

The Program is established through individual agreements between University and interested companies. Companies participating in the Program are referred to as "Associates". The purpose of the Program is to support research at the Arizona State University Telecommunications Research Center (the "Center") in an effort to further develop analytical methods for advanced helicopter applications, and then use the anechoic test chamber located at the Center for testing and analysis verification. Research initiatives under the Program will be selected based on the recommendations of the advisory task force for the Program, which will be comprised of Associate representatives and representatives of certain interested federal agencies. Research initiatives will be directed toward the analysis of antennas on helicopter structures, and analysis of scattering and absorption characteristics of scale-model targets. The test proposed will also verify numerical, analytical and computer models being developed to predict the antenna and scattering characteristics of desired targets. The expectation is that such models will save time and money in the development of advanced antenna concepts for helicopters using conventional conductive and modern composite fuselage configurations. The goals of the Program are to (i) facilitate the exchange of information and research results on recent advances in the area of advanced helicopter electromagnetic research and developments; (ii) support research at the Center on topics of mutual interest to the community of advanced avionics antenna technology; (iii) develop standard practices for evaluation and comparison of helicopter antennas mounted on metallic and non-metallic configurations; and (iv) collect and disseminate information on state-of-the-art helicopter scale model testing and applications methods.

Joseph H. Widmar,

Director of Operations Antitrust Division.

[FR Doc. 90-560 Filed 1-9-90; 8:45 am]

BILLING CODE 4410-01-M

CAD Framework Initiative, Inc.; Filing of Changes in Membership

Notice is hereby given that, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301, *et seq.* ("the Act"), CAD Framework Initiative, Inc. ("CFI") on November 15, 1989, filed an additional written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in the membership of CFI, Inc. The additional notification was filed for the purpose of extending the protections of section 4 of the Act, limiting the recovery of antitrust plaintiffs to actual damages under specific circumstances.

On December 30, 1988, CFI filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on March 13, 1989, (54 FR 10456). On May 17, 1989, CFI filed an additional written notification. The Department published a notice in response to this additional notification on June 22, 1989 (54 FR 26265). A correction to the additional notification was published on August 4, 1989 (54 FR 32141); a further correction was published on August 23, 1989 (54 FR 35091). On August 16, 1989, CFI filed an additional written notification. The Department published a notice in response to this additional notification on September 21, 1989 (54 FR 38912).

Since the last notification of membership changes on August 16, 1989, there have been the following changes in CFI's membership: (1) The addition of corporate members: Fujitsu Microelectronics, Matsushitu Electric Industrial Co., Ltd., and Zuken, Inc., and (2) the addition of associate members: Carol Daane, Michael Heck, Amir Hekmatpour, Hilary Kahn, Eskil Khelkerud, Karl Neusinger, and Greg Wasche.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 90-561 Filed 1-9-90; 8:45 am]

BILLING CODE 4410-01-M

[1] *See* Finance Docket No. 31577, *Chicago South Shore & S.B. R. Co. and Northern Ind. Commuter Trans. Dist.—Pet. for Decl. Order—Com. Car. Obligation* (not printed), served December 29, 1989.

OSI/Network Management Forum; Additional Membership Filing

Notice is hereby given that, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), the OSI/Network Management Forum, (the "Forum") on November 22, 1989, filed an additional written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing additions to its membership. The additional written notification was filed for the purpose of extending the protections of section 4 of the Act, limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

On October 21, 1988, the Forum filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the Federal Register pursuant to section 6(b) of the Act on December 8, 1988, 53 FR 49615. On December 23, 1988, March 23, 1989, July 3, 1989, and September 28, 1989, the Forum filed additional written notifications pursuant to section 6(a) of the Act. The Department of Justice published notices in the Federal Register pursuant to section 6(b) on January 26, 1989, 54 FR 3870, April 25, 1989, 54 FR 17834, August 4, 1989, 54 FR 32141, and October 26, 1989, 54 FR 43631.

The identities of the additional parties to the venture are given below:

Voting Members

Digital Equipment Corporation, 550 King Street (LKG2-2/NO1), Littleton, MA 01460

International Business Machines Corporation, P.O. Box 12195, Dept. H 14, Bldg. 062, Research Triangle Park, NC 27709

Associate Members

Boeing Computer Services, P.O. Box 24346 M/S 7M-44, Seattle, WA 98124-0346

Cabletron Systems, Inc., P.O. Box 6257, East Rochester, NH 03867.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 90-562 Filed 1-9-90; 8:45 am]

BILLING CODE 4410-01-M

Software Productivity Consortium; Filing of Withdrawal of TRW Inc.'s Membership

Notice is hereby given that, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* (the "Act"), Software Productivity Consortium ("SPC") on November 30, 1989, filed a written notification simultaneously with the Attorney General and the Federal Trade Commission Disclosing TRW Inc.'s withdrawal as a member of SPC, effective September 30, 1989. The notification was filed for the purpose of maintaining the protections of the Act limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

No other changes have been made in either the membership or planned activity of SPC.

On December 21, 1984, SPC filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the Federal Register pursuant to section 6(b) of the Act on January 17, 1985, 50 FR 2633. Since then, SPC filed additional notifications on April 23, 1985, September 24, 1985, December 10, 1985, and February 13, 1986, identifying changes in its membership, and the Department of Justice published notice of these changes in the Federal Register pursuant to section 6(b) of the Act on May 21, 1985, 50 FR 20954; October 22, 1985, 50 FR 42786; January 13, 1986, 51 FR 1450; and March 11, 1986, 51 FR 8373, respectively. SPC also filed additional notifications on December 19, 1988 and December 27, 1988, notice of which the Justice Department published on January 31, 1989, 54 FR 4922, and another notification on March 23, 1989, notice of which the Department published on May 4, 1989, 54 FR 19256-19257.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 90-563 Filed 1-9-90; 8:45 am]

BILLING CODE 4410-01-M

NATIONAL SCIENCE FOUNDATION

Permit Applications Received Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permit applications received under the Antarctic Conservation Act of 1978, Public Law 95-541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permit applications received to conduct activities regulated under the Antartic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act of 1978 at title 45 part 670 of the Code of Federal Regulations. This is the required notice of permit applications received.

DATE: Interested parties are invited to submit written data, comments, or views with respect to these permit applications by February 12, 1990. Permit applications may be inspected by interested parties at the Permit Office, address below.

ADDRESS: Comments should be addressed to Permit Office, Room 627, Division of Polar Programs, National Science Foundation, Washington, DC 20550.

FOR FURTHER INFORMATION CONTACT: Charles E. Myers at the above address or (202) 357-7932.

SUPPLEMENTAL INFORMATION: The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Pub. L. 95-541), has developed regulations that implement the "Agreed Measures for the Conservation of Antarctic Fauna and Flora" for all United States citizens. The Agreed Measures, developed in 1964 by the Antarctic Treaty Consultative Parties, recommended establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas as requiring special protection. The regulations establish such a permit system to designate Specially Protected Areas and Sites of Special Scientific Interest. Additional information was published in the Federal Register on July 17, 1989.

The application received is as follows:

1. *Applicant.* Mahlon C. Kennicutt, Texas A&M University, 10 South Graham Road, College Station, Texas 77845

Activity for Which Permit Requested

Taking, import into U.S.A., enter Specially Protected Area. The applicant is conducting research on seabirds—specifically the effects of the February 1989 fuel oil spill from the Argentine vessel Bahia Paraiso. He requests permission to salvage dead specimens of sea birds for research purposes and import specimens into the U.S.A.

Location

Palmer Station and vicinity, Antarctica, Specially Protected Area No. 17, Litchfield Island.

Dates

March 1990-March 1991.

Charles E. Myers,

Polar Coordination Specialist.

[FR Doc. 90-558 Filed 1-9-90; 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 December 15, 1989 through December 28, 1989. The last biweekly notice was published on December 27, 1989 (54 FR 53200).

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 February 9, 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 Nos. STN 50-528, STN 50-529 and STN 50-530, Palo Verde Nuclear Generating Station (PVNGS), Units 1, 2 and 3, Maricopa County, Arizona

Date of amendment request: October 24, 1989

Description of amendment request: The proposed amendments would modify the Technical Specifications (Appendix A to Facility Operating License Nos. NPF-41, NPF-51 and NPF-74 of PVNGS Units 1, 2 and 3 respectively), Section 3.3.1 to change the referenced Action statement of the Excore Log Power and the Reactor Protection System (RPS) Matrix Logic Channels of Table 3.3-1 to a new Action statement.

More specifically, the currently applicable action statement (Action 8) which states: "With the number of OPERABLE channels one less than the Minimum Channels OPERABLE requirement, restore an inoperable channel to OPERABLE status within 48 hours or open an affected reactor trip breaker within the next hour" would be revised to reflect that all reactor trip breakers will be opened rather than the affected reactor trip breaker if the inoperable channel is not returned to an operable status within 48 hours. This revised action statement, which would be labeled Action 9, is required since the "affected" reactor trip breaker cannot be determined from the output signal of the RPS Matrix logic channels.

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 license has evaluated the proposed amendments 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 change does not involve a significant increase in the probability or consequences of an accident previously evaluated. The present Technical Specification would place the plant in a configuration which has not been defined by the safety analysis. Changing the action statement to the more appropriate ACTION 9 would place the plant in a safe configuration and would be consistent with the assumptions of the safety analysis thus maintaining the same probability or consequences of an accident as was originally evaluated.

Standard 2 - Create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change will not create the possibility of a new or different kind of accident from any accident previously evaluated in the UFSAR. The present Technical Specifications would place the plant in a configuration which has not been defined by the safety analysis. Changing the action statement to the more appropriate ACTION 9 would place the plant in a safe configuration and would be consistent with the assumptions made in the safety analysis thus not introducing any new or different kinds of accidents.

Standard 3 - Involve a significant reduction in a margin of safety.

The proposed change does not involve a significant reduction in a margin of safety. The present Technical Specifications would place the plant in a configuration which has not been defined by the safety analysis. Changing the action statement to the more appropriate ACTION 9 would place the plant in a safe configuration and would be consistent with the assumptions of the safety analysis thus maintaining the same margin of safety as was originally evaluated.

The staff has reviewed the licensees' no significant hazards analysis and concurs with their conclusions. As such, the staff proposes to determine that the requested changes do not involve a significant hazards consideration.

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

Arizona Public Service Company, et al., Docket No. STN 50-528 Palo Verde Nuclear Generating Station (PVNGS), Unit 1, Maricopa County, Arizona

Date of amendment request: October 25, 1989

Description of amendment request: The proposed amendment would revise Surveillance Requirement 4.5.2.h of

Technical Specification (TS) Section 3/4.5.2, "Emergency Core Cooling Systems," by modifying the flow specifications associated with post-LOCA recirculation high pressure safety injection (HPSI) pump simultaneous hot leg and cold leg injection flow balancing. Specifically, the upper flowrate limits for both hot leg and cold leg injection will be removed, and a total pump flowrate limit will be specified to provide pump runout protection.

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 amendment increases the maximum allowable flow from the HPSI pump during simultaneous hot and cold leg injection. The HPSI pump minimum runout flow was originally specified at 1130 gpm in both the Combustion Engineering Standard Safety Analysis Report System 80 (CESSAR) and to the pump vendor, Ingersol-Rand. Ingersol-Rand has verified that the pumps that [SIC] are capable of flows greater than 1200 gpm. This amendment utilizes the measured capability of the pump to increase the operational flexibility in the hot and cold leg simultaneous injection flow balancing. The assumptions in the safety analysis are not affected as the minimum flow values to both the hot and cold legs are maintained. The increased maximum flow value will increase the margin of safety in the analysis by allowing increased flushing flow to the vessel while maintaining the HPSI pump below its runout flowrate.

Standard 2 - Create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed amendment to the Technical Specification Surveillance Requirements does not alter the plant configuration or operation. Credit is taken for the actual installed capability of the HPSI pumps. Increasing the maximum allowable flow beyond the minimum design specification of 1130 gpm can improve the plants performance during the long-term cooling phase of a loss of coolant accident. The increased flow can provide a greater flushing action to prevent boron precipitation in the vessel and more water for decay heat removal during the long-term cooling phase of the accident.

Standard 3 - Involve a significant reduction in a margin of safety.

As discussed in Standard 2, the proposed amendment can improve the margin of safety during the long-term cooling following a loss of coolant accident. The margin of safety during long-term cooling is determined by adequate flow to the vessel to match decay heat boiloff, prevent boron precipitation in the reactor vessel, and keep the HPSI pump flow below runout. All three of these requirements will be satisfied by the proposed amendment. The increased allowable flow can provide more margin to the flow required to the vessel to match the boiloff due to decay heat and prevent boron precipitation. The higher maximum allowable flow will also be below the runout condition of the HPSI pump. The PVNGS Nuclear Engineering Department also performed a review of the net positive suction head (NPSH) requirements for the HPSI pump and the diesel generator loading during long-term cooling and found this change to be acceptable to both.

The staff has reviewed the licensees' no significant hazards analysis and concurs with their conclusions. As such, the staff proposes to determine that the requested changes do not involve a significant hazards consideration.

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

Boston Edison Company, Docket No. 50-293, Pilgrim Nuclear Power Station, Plymouth County, Massachusetts

Date of amendment request: December 7, 1989

Description of amendment request: The proposed amendment would replace the existing Pilgrim Technical Specification definition of surveillance frequency with a new definition which is consistent with the guidance provided in Generic Letter (GL) 89-14, "Line-Item Improvements In Technical Specifications - Removal of the 3.25 Limit On Extending Surveillance Intervals." The proposed change also moves the definition of an operating cycle from the definition of surveillance frequency to the definition of surveillance interval. This places the definition of operating cycle under the proper heading and adds to the clarity of the definition of the surveillance frequency.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards 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.

(1) Operation of the facility in accordance with the proposed amendment would not involve a significant increase in the probability or consequences of an accident previously evaluated.

Pilgrim experience shows the extension of surveillance intervals enhances safety by removing the need to perform a surveillance during plant conditions unsuitable to its performance, such as during transient plant conditions or when safety systems are out of service because of ongoing surveillance or maintenance activities. Limiting the maximum combined interval to 3.25 times the interval for three consecutive intervals does not increase safety because extending surveillance 25% presents a small risk in contrast to the alternative of a forced shutdown or performance during unsuitable plant conditions. This position on the safety impact of removing the 3.25 limit is supported by industry experience and documented in GL 89-14. Since the risk posed by this change is less than the risk associated with the existing limit, operating Pilgrim in accordance with the proposed change does not involve a significant increase in the probability or consequences of any accident previously analyzed.

(2) Use of the modified specification would not create the possibility of a new or different kind of accident from any accident previously evaluated.

Removing the 3.25 limit on increasing surveillance intervals 25% reduces the possibility of a surveillance interval forcing a shutdown, or forcing the performance of a surveillance during unsuitable plant conditions. Its removal thereby reduces the risk associated with either alternative. It does not change plant equipment configuration or operation, and is administrative in nature. Hence, the change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) Use of the modified specification would not involve a significant reduction in a margin of safety.

Removing the 3.25 limit on increasing surveillance intervals 25% has been shown by industry experience, as documented in GL 89-14, to decrease risk when contrasted with the alternative actions potentially compelled by allowing it to remain in effect. Because risk is reduced by this proposed change, it does not involve a significant reduction in the margin of safety.

The staff has reviewed the licensee's no significant hazards consideration determination analysis. Based upon this review, the staff agrees with the licensee's analysis. Therefore, based upon the above discussion, the staff proposes to determine that the proposed change does not involve a significant hazards consideration.

Local Public Document Room location: Plymouth Public Library, 11 North Street, Plymouth, Massachusetts 02360

Attorney for licensee: W. S. Stowe, Esq., Boston Edison Company, 800 Boylston Street, 36th Floor, Boston, Massachusetts 02199

NRC Project Director: Richard H. Wessman

Carolina Power & Light Company, et al., Docket Nos. 50-325 and 50-324, Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County, North Carolina

Date of application for amendments: October 10, 1989

Description of amendment request: The proposed amendment would increase the allowable primary containment leakage rates (L_a and L_t) specified in Technical Specification 3.6.1.2, Primary Containment Leakage. L_a would increase from 0.5 percent to 1.0 percent by weight of the containment air per 24 hours at 49 psig. L_t would increase from 0.357 percent to 0.714 percent by weight of containment air per 24 hours at 25 psig. The Bases Section for Technical Specification 3.6.1.2 will be revised to reflect this change.

Basis for proposed no significant hazard consideration determination: The Commission has provided standards for determining whether a no significant hazard consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has performed an analysis addressing these standards. The analysis follows.

1. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed amendment does not involve any physical changes, additions, modifications, or deletions to existing equipment or systems. In addition, it does not affect any operating parameters of the reactor, primary coolant system, and emergency core cooling systems. Therefore, the proposed change does not affect core damage frequency or system availability. As such, the change can not involve an increase in the probabilty of a previously evaluated accident.

The proposed amendment increases L_a from 0.5 percent to 1.0 percent by weight of the containment air per 24 hours at 49 psig and L_t from 0.357 percent to 0.714 percent by weight of containment air per 24 hours at 25 psig. Chapter 15 of the Brunswick FSAR was reviewed and it was determined that Section 15.6.4, Loss of Coolant Accident [LOCA], is affected by the proposed change. There are three analysis [SIC] to be considered in this section: offsite doses, control room doses, and environmental qualification.

The proposed amendment will result in a slight increase to offsite doses resulting from a design basis LOCA; however, this increase is not significant. At the low population zone, the doses would increase from 2.0 percent to 4.0 percent of the 10 CFR 100 limit of 25 rem for the whole body and from 3.4 percent to 6.6 percent of the 10 CFR 100 limit of 300 rem for the thyroid. At the site boundary, the whole body and thyroid doses increase from 3.2 percent to 6.4 percent and 1.3 percent to 2.6 percent of the 10 CFR 100 limits respectively.

Assuming the worst case, increasing L_a from 0.5 percent to 1.0 percent by weight per day and L_t from 0.357 percent to 0.714 percent by weight per day will result in post-accident control room doses of no more than 0.84 rem whole body, 0.82 rem thyroid, and 0.06, skin. These dose limits remain only a small fraction of the limits specified in Section 6.4 of the Standard Review Plan (5 rem whole body, 30 rem thyroid, and 30 rem skin). As such, the proposed increase in the allowable primary containment leakage rates (L_a and L_t) is acceptable from a control room habitability standpoint.

Finally, the effects of increasing the allowable primary containment leakage on environmental qualification were re-analyzed. Increasing L_a and L_t will decrease primary containment doses since it results in increased removal of activity from containment. It will, however, tend to increase the doses in the reactor building.

The equipment qualification doses in the reactor building were originally calculated for the Brunswick FSAR using the methodology of CP&L's Brunswick calculation entitled Design Report 12. The re-analysis is more realistic and removes some of the conservatism of the original analysis. It remains, however a highly conservative analysis. This analysis determined that environmental qualification doses will remain within those currently specified. As such, the bases for equipment qualification at Brunswick is [SIC] not changed by increasing the allowable primary containment leakage rates.

Based on the above, the Company has concluded that the proposed amendment will not result in a significant increase in the consequences of a previously evaluated accident.

2. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated. As stated above, the proposed amendment does not involve any physical changes, additions, modifications, or deletions to existing equipment or systems. In addition, it does not affect any operating parameters of the reactor, reactor coolant system, and emergency core cooling systems.

Therefore, the proposed amendment cannot create the possibility of a new or different kind of accident.

3. The proposed amendment does not involve a significant reduction in the margin of safety. The change does not affect the method by which any safety related equipment or systems perform their intended function. Nor is any safety related setpoint revised as a result of the change. Increasing L_a and L_t will result in a slight increase to offsite doses resulting from a design basis LOCA. However, the doses remain well within 10 CFR 100 limits and, therefore, are not considered to be significant. Control room doses are also increased but remain well below the applicable limits specified in Section 6.4 of the Standard Review Plan. As such, the proposed increase in the allowable primary containment leakage rates (L_a and L_t) is acceptable from a control room habitability standpoint. Finally, the effects of increasing the allowable primary containment leakage rates on environmental qualification were re-analyzed. It was determined that the bases for equipment qualification at Brunswick is not changed by increasing the allowable leakage rates.

The licensee has concluded that the proposed amendment meets the three standards in 10 CFR 50.92 and, therefore, involves no significant hazards consideration.

The NRC staff has made a preliminary review of the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Although there will be an increase in dose to operators and the public as a result of a LOCA, it is not significant. Accordingly, the Commission proposes to determine that the requested amendment does not involve a significant hazards consideration.

Local Public Document Room location: University of North Carolina at Wilmington, William Madison Randall Library, 601 S. College Road, Wilmington, North Carolina 28403-3297.

Attorney for licensee: R. E. Jones, General Counsel, Carolina Power & Light Company, P. O. Box 1551, Raleigh, North Carolina 27602

NRC Project Director: Elinor G. Adensam

Consumers Power Company, Docket No. 50-255, Palisades Plant, Van Buren County, Michigan

Date of amendment request: April 3, 1989

Description of amendment request: The proposed amendment would revise the Technical Specifications (TS) to incorporate the revisions of Section 3.0 of the Standard Technical Specifications regarding limiting conditions for operation and surveillance requirements as described in Generic Letter (GL) 87-09.

Specification 3.0.4 is revised to define when its provisions apply; i.e., when the affected action statements permit continued operation for an unlimited period of time, instead of defining when the provisions of Specification 3.0.4 do not apply.

The addition of a relevant Basis statement for the above change is also included.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has evaluated the proposed changes against the above three standards as required by 10 CFR 50.91(a). The Commission's staff has reviewed the licensee's evaluation and agrees with it. The licensee has concluded that 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 because the proposed changes to the TS do not involve physical changes to the plant and exceptions to when certain RPS surveillances are required to be performed are consistent with the plant safety analysis and the STS.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated. No physical modification to the plant is involved in the proposed changes. The operability and surveillance requirements for RPS instrumentation are not reduced with respect to the safety analysis.

3. Involve a significant reduction in a margin of safety. The changes proposed by this request will permit continued operation of the plant when conformance to the action requirements of a specification provides an acceptable level of safety for continued operation. The addition of a Basis statement will ensure that interpretation of the TS in Section 3.0 is consistent with the intent of those TS.

The changes proposed by the licensee are consistent with the guidance contained in GL 87-09. The staff has reviewed the licensee's no significant hazards consideration determination analysis. Based on this review, the staff proposes to determine that the proposed changes do not involve a significant hazards consideration.

Local Public Document Room location: Van Zoeren Library, Hope College, Holland, Michigan 49423.

Attorney for licensee: Judd L. Bacon, Esq., Consumers Power Company, 212 West Michigan Avenue, Jackson, Michigan 49201.

NRC Project Director: John O. Thoma, Acting.

Duke Power Company, Docket Nos. 50-369 and 50-370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of amendment request: September 15, 1989

Description of amendment request: The proposed amendments would (1) correct and better define a trip setpoint and allowable value in Technical Specification (TS) Table 3.3-4, Engineered Safety Features Actuation System Instrumentation Trip Setpoints, (2) add appropriate response times to three items in TS Table 3.3-5, Engineered Safety Features Response Times, and (3) revise the present value of the response time of an item in TS Table 3.3-5.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The first proposed change to TS Table 3.3-4, Item 4.d, Negative Steam Line Pressure Rate-High, would delete the minus signs from the numerical values for the Trip Setpoint and the Allowable Values. This editorial change is needed because the heading for Item 4.d already indicates a "negative" rate of pressure change. This clarifying editorial change is administrative and meets the three criteria of 10 CFR 50.92(c). Therefore, it involves no significant hazards consideration.

The second revision to Item 4.d of TS Table 3.3-4 would change the entry under Trip Setpoint from "less than or equal to 100 psi/sec" to "less than or equal to 100 psi with a rate/lag function time constant greater than or equal to 50 seconds." Similarly, the entry under Allowable Values would be changed from "less than or equal to 120 psi/sec" to "less than or equal to 120 psi with a rate/lag function time constant greater than or equal to 50 seconds." This change in format and method of denoting the setpoints would correspond to the design of the as-built steam line pressure rate instrumentation and ensure its performance consistent with safety analyses.

These clarifying changes are administrative in nature and do not involve changes to the actual values themselves or the manner in which they are used. Consequently, the requested changes meet the three criteria of 10 CFR 50.92(c) and, therefore, would not involve a significant hazards consideration.

The proposed changes to TS Table 3.3-5, Items 2.e, 3.e, and 4.e would specify response times of less than or equal to 4 seconds for the Containment Purge and Exhaust Isolation systems for each of three initiating signals: Containment Pressure-High, Pressurizer Pressure-Low-Low, and Steam Line Pressure-Low. At present, response times for Containment Purge and Exhaust Isolation are specified to be "N.A.", i.e., not applicable.

The licensee's reason in the letter of September 15, 1989, for the proposed revisions to these items is as follows:

The current Technical Specification indications of N.A. for these three items (indicating that no credit was taken in the licensing basis accident analyses for those channels) are incorrect since response times have been used to minimize offsite consequences of any condition occurring while containment purge and exhaust is being used. Section 15.B.2 of the McGuire FSAR considers the case of a LOCA concurrent with lower containment pressure relief. The results of the additional offsite

dose due to this accident are presented in FSAR Table 15.0.12-1. One of the parameters used to evaluate this case is the isolation time for the Containment Air Release and Addition (VQ) System valves which are used in venting lower containment (FSAR Section 9.5.12.3 indicates that these valves auto close on a containment isolation). FSAR Table 15.B.2-1 indicates the isolation time for these valves is 4 seconds. Isolation times greater than 4 seconds (or no isolation at all) could result in offsite consequences in excess of that assumed in plant accident analysis. Therefore, the current Technical Specifications are non-conservative with respect to the licensing basis.

Consequently, the Technical Specifications are being changed to reflect the [less than or equal to] 4 second response times to ensure compliance with the assumptions used in the plant licensing basis analysis. Note that the [less than or equal to] 4 second response times are consistent with FSAR section 9.5.12.3 which indicates that these valves have a 3 second closure time, and the allowable 1 second for generating an ESF response as indicated in FSAR section 7.3.1.2.6. These changes are more conservative than the current Technical Specifications since they constitute an additional restriction not presently included in the Technical Specifications.

The licensee also proposed a revision to Item 6.b of TS Table 3.3-5, which specifies the Engineered Safety Features Response Time addressing Feedwater Isolation (for Steam Generator Water Level-High-High). The requested change would lower the required response time to less than or equal to 9 seconds from the currently specified response time of less than or equal to 13 seconds. The licensee's reason in the letter of September 15, 1989, for this revision is as follows:

The licensing basis safety analysis depending on this response time is excessive feedwater flow at full power, analyzed in FSAR Section 15.1.2. FSAR Table 15.1.2-1 gives the sequence of events for this analysis. The High-High Steam Generator Water Level setpoint is reached at 27 seconds with feedwater isolation occurring at 36 seconds (i.e., 9 seconds later). For another 4 seconds in isolation time (i.e., [less than or equal to] 13 seconds), an additional mass increase beyond that assumed in the analysis could be expected. This additional feedwater level can affect the consequences of the event at power, if there has been a trip, with potential effects on reactivity control (e.g., power restoration) and/or overfill of the steam generator to cause water ingress (i.e., flooding) into the main steam lines. Additionally, it can have consequences of potentially larger importance for the event occurring from sub-critical zero power. Therefore, the current Technical Specification value of [less than or equal to] 13 seconds is less conservative than the licensing basis.

Consequently, to ensure compliance with the assumptions used in the safety analysis, the Technical Specification value is being changed to [less than or equal to] 9 seconds. Note that this 9 seconds value is consistent with the values used for feedwater isolation on other ESF initiating signals (ref. Technical Specifications Table 3.3-5, items 2.c, 3.c, and 4.c). This change is more conservative than the current Technical Specification since it is more limiting than the [less than or equal to] 13 second value.

The information from the licensee presented above was used in the licensee's discussion of no significant hazards consideration for the proposed revisions to Items 2.e, 3.e, 4.e and 6.b of TS Table 3.3-5:

The requested changes to add appropriate ESF response times addressing Containment Purge and Exhaust Isolation (for Containment Pressure-High, Pressurizer Pressure-Low-Low, and Steam Line Pressure-Low), and lower the required ESF response time addressing Feedwater Isolation (for Steam Generator Water Level—High-High), are conservative changes to ensure compliance with the plant's licensing basis safety analyses. The requested changes would not involve a significant increase in the probability of an accident previously evaluated or create the possibility of a new or different kind of accident from any accident previously evaluated since they only address previously evaluated accidents' aspects, and therefore involve no accident causal mechanisms not previously evaluated. Similarly, since the requested changes conform to the previously evaluated accident assumptions, they would not involve a significant increase in the consequences of an accident or a significant reduction in a margin of safety (they would ensure previously evaluated accidents' consequences and margins of safety were maintained - rather, the lack of these changes would possibly increase the consequences of accidents previously evaluated and reduce the margins of safety). As these changes are more restrictive/limiting than the current Technical Specifications, they clearly involve no significant hazards considerations as they can have no adverse effect on the three standards referenced above.

The Commission's staff has reviewed the licensee's submittal and significant hazards consideration and concurs with the licensee's reasons and conclusion that the proposed revisions to TS Table 3.3-5 do not involve a significant hazards consideration. Additionally, we note that one of the Commission's examples of actions not likely to involve a significant hazards consideration is (ii), "A change that constitutes an additional limitation, restriction, or control not presently included in the technical specifications, e.g., a more stringent surveillance requirement." Since the requested changes are more restrictive, this example applies to these proposed revisions.

On the basis of the conclusions discussed above for the revisions to TS Table 3.3-4 and TS Table 3.3-5, the Commission proposes to determine that the proposed amendments involve no significant hazards consideration.

Local Public Document Room location: Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28223

Attorney for licensee: Mr. Albert Carr, Duke Power Company, 422 South Church Street, Charlotte, North Carolina 28242

NRC Project Director: David B. Matthews

Duke Power Company, Docket Nos. 50-369 and 50-370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of amendment request: October 30, 1989

Description of amendment request: The proposed amendments would revise the surveillance requirements of Technical Specifications (TSs) 4.9.8.1 and 4.9.8.2, and their associated Bases to: (1) reduce the required Residual Heat Removal (RHR) system flow rate during Mode 6 (refueling) operation, when the Reactor Coolant System (RCS) is partially drained, from greater than or equal to 3000 gpm to greater than or equal to 1000 gpm, (2) add a requirement to ensure that the RCS temperature is maintained no more than 140° F, and (3) provide the technical justification for the revision in TS Bases 3/4.9.8.

The RHR flow rate ensures sufficient cooling capacity is available to remove decay heat and maintain the water in the reactor vessel at or below 140° F as required during refueling. The flow rate also ensures sufficient coolant circulation is maintained through the core to minimize the effect of a boron dilution incident and prevent boron stratification.

On October 17, 1988, the NRC issued Generic Letter (GL) 88-17, "Loss of Decay Heat Removal." The GL recommended that licensees implement certain actions and programmed enhancements concerning operation during shutdown cooling with irradiated fuel in the reactor vessel or during conditions where such cooling would normally be provided. One of the recommended programmed enhancements was that licensees identify and submit appropriate changes to those TSs that restrict or limit the safety benefit of actions identified in GL 88-17. One action, reducing the flow rate, would aid in preventing vortexing and air entrainment in the RCS and RHR system—conditions that could damage operating pumps or cause unstable levels in the reactor vessel. As long as an RHR pump is running, even at flow rates as low as 1000 gpm, there is sufficient removal of decay heat from irradiated fuel and enough mixing in the

flow to ensure uniform boron distribution throughout the RCS. As before, the RHR system will continue to remove enough residual heat to maintain the RCS below 140° F.

The licensee also reviewed the proposed TS amendments with regard to the concerns raised by NRC Bulletin 88-04, "Potential Safety-Related Pump Loss." Specifically, operating the RHR pumps at flow rates less than 3000 gpm will increase the stress on the pump lower bearings. The licensee will monitor the bearing wear and will replace the bearings if inspection reveals significant degradation.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The proposed amendments would not involve a significant increase in the probability or consequences of an accident previously evaluated because the reduction in flow will not keep the RHR system from fulfilling its safety functions. The system will continue to remove enough residual heat to maintain the RCS below 140° F, and continue to prevent boron dilution and boron stratification. Two RHR trains will still be required operable when there is less than 23 feet of water above the reactor vessel flange. This will ensure that a single failure of the operating RHR train will not result in a complete loss of system capability. This revision will also reduce the probability of losing the RHR system due to vortexing or air entrainment.

The proposed amendments would not create the possibility of a new or different kind of accident from any accident previously evaluated because the lower flow rates would still allow the RHR system to fulfill its intended safety functions. Also, the requested revision would not introduce any new modes of operation and would not affect the design of the facility.

The proposed amendments would not involve a significant reduction in a margin of safety because the proposed revision would still allow the RHR system to fulfill its intended safety functions and would reduce the probability of rendering the RHR system inoperable.

Based on the above considerations, the Commission proposes to determine that the requested revision does not involve a significant hazards consideration.

Local Public Document Room location: Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28223

Attorney for licensee: Mr. Albert Carr, Duke Power Company, 422 South Church Street, Charlotte, North Carolina 28242

NRC Project Director: David B. Matthews

Florida Power and Light Company, Docket No. 50-335, St. Lucie Plant, Unit No. 1, St. Lucie County, Florida

Date of amendment request: December 15, 1989

Description of amendment request: On July 2, 1984, the NRC issued Generic Letter (GL) 84-15, "Proposed Staff Actions to Improve and Maintain Diesel Generator Reliability" which presented NRC recommendations regarding improvements to the Technical Specifications to enhance diesel generator reliability. The proposed amendment would change the St. Lucie Plant, Unit 1 Technical Specifications (TS) to be consistent with the recommendations of GL 84-15. The proposed amendment would also make the St. Lucie Unit 1 TS for "Electrical Power Systems, A.C. Sources" similar to the St. Lucie Unit 2 TS.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee provided the following discussion regarding the above three criteria.

Criterion 1

Operation of the facility in accordance with the proposed amendment would not involve a significant increase in the probability or consequences of an accident previously evaluated.

The probability of occurrence of an accident previously evaluated in the FSAR has not been affected since the emergency diesel generators do not affect the probabilities of occurrence of accidents.

The consequences of an accident previously evaluated in the FSAR have not been increased. Reducing the test frequency and modifying the starting requirements to be consistent with the diesel manufacturer's recommendations are intended to enhance diesel reliability by minimizing severe test conditions which can lead to premature failures.

The probability of a malfunction of equipment important to safety previously evaluated in the FSAR has been reduced since the severe test requirements have been reduced which will result in increased diesel engine reliability.

The consequences of a malfunction of equipment important to safety previously evaluated in the FSAR have not changed since the new surveillance requirements will not affect the operation or operability of the diesels or any other safety-related equipment.

The proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated in that the proposed change involves replacing fuel oil tests currently required by Technical Specifications with Technical Specification Surveillance Requirements which are more effective in detecting unsatisfactory fuel oil and are simpler to perform.

The deletion of Limiting Condition for Operation (LCO) 3.0.5 will not involve a significant increase in the probability or consequences of an accident previously evaluated. This LCO currently delineates what additional conditions must be satisfied to permit operation to continue, consistent with the ACTION statements for power sources, when a normal or emergency power source is not OPERABLE. It specifically prohibits operation when one division is inoperable because its normal or emergency power source is inoperable and a system, subsystem, train, component or device in another division is inoperable for another reason.

The Technical Specifications have been revised to incorporate this requirement in the ACTION statements for normal or emergency power source inoperabilities for MODES 1 through 4. In MODES 5 or 6 the ACTION statement for Specification 3.0.5 does not apply, and thus the individual ACTION statements for each applicable Limiting Condition for Operation in these MODES must be adhered to. Exceptions to [the] requirement are incorporated in specific individual Technical Specifications. Since this change is administrative in nature and no OPERABILITY requirements have been deleted, no significant increase in the probability or consequences of an accident previously evaluated is involved.

The addition of new ACTION Statement f to LCO 3.8.1.1, pertaining to the administrative availability of a Unit 2 startup transformer for use by Unit 1, will not involve a significant increase in the probability of an accident previously evaluated since the

startup transformers do not affect probability calculations or determinations.

The addition of new ACTION Statement f to LCO 3.8.1.1, pertaining to the administrative availability of a Unit 2 startup transformer for use by Unit 1, will not affect the consequences of an accident previously evaluated in that the proposed addition has been determined to meet the requirements of General Design Criteria 17 and 5, with respect to multi-unit sharing. This change incorporates a design feature already evaluated during the construction and licensing of St. Lucie Unit 2.

Criterion 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.

The possibility of a new or different kind of accident other than that analyzed in the FSAR has not been created since the change affects the starting and loading practices during testing only and has no impact on actual accident analyses. The possibility of a malfunction of equipment important to safety of a different type than any analyzed in the FSAR has not been increased. In fact, the probability of equipment malfunction has been reduced as the result of the improved testing conditions and frequency of testing as discussed in Generic Letter 84-15.

The proposed amendments would replace fuel oil tests currently required by the Technical Specifications with different tests which are more effective for ensuring quality fuel oil. These changes are:

(a) The proposed testing requirements would improve the capability to detect delivery of diesel fuel contaminated with gasoline or jet fuel (JP-4) by adding a test for flash point.

(b) The proposed Clear and Bright test is more sensitive for detecting water and sediment than the test which is currently required.

(c) The accelerated oxidation stability test which predicts the tendency of the fuel to form particulates during storage would be replaced by a different test performed more frequently which actually measures particulates in the fuel.

(d) Because proposed tests for incoming fuel shipments will ensure its quality, periodic testing would only be required for the parameters which can change during storage. Thus, certain test requirements would be deleted.

(e) Because of the high degree of protection obtained by the tests for incoming fuel prior to addition to the storage tanks, the proposed relaxation of the time limit for complete fuel specification testing from 14 days to 31 days is insignificant.

(f) Since comparative gravity, as proposed, can detect contamination by jet fuel (Jet A) and other types of contamination are detected by tests other than viscosity, viscosity testing is not required if gravity is determined using this method.

(g) Under the proposed amendments, analysis for sulfur using any one of the three generally accepted methods would be allowed.

(h) Administrative changes would be made to reference up-to-date industry standards.

(i) The requirement to periodically remove accumulated water from the day tanks would be extended to include the storage tanks.

The addition of ACTION Statement f does not create the possibility of a new or different kind of accident from any previously evaluated in that the inoperability of the offsite power source is assumed in the accident analyses on record.

Criterion 3

Use of the modified specification would not involve a significant reduction in a margin of safety.

The margin of safety as defined in the basis for any Technical Specification is not reduced by the proposed changes. The changes in the testing requirements do not affect the capability of the diesels to perform their function. The purpose of the change is to increase the diesel engine reliability.

The deletion of LCO 3.0.5 does not involve a significant reduction in a margin of safety since the requirements for normal or emergency power source OPERABILITY have been moved from LCO 3.0.5 to the ACTION statements for A.C. Power Systems in MODES 1 through 4. Exceptions to the Operability requirements in MODES 5 and 6 currently permitted by LCO 3.0.5 have been moved to the individual specifications.

The addition of ACTION Statement f to the Unit 1 Technical Specifications does not involve a significant reduction in any margin of safety in that this change is considered to be administrative in nature. The design of the offsite power network was evaluated during the construction and licensing of St. Lucie Unit 2, and was found to be in accordance with the requirements of General Design Criteria 5 and 17 with respect to multi-unit sharing. As stated in the bases for the St. Lucie Unit 2 Technical Specifications, "the ACTION requirements specified for the levels of degradation of the power sources provide restriction upon continued facility operation commensurate with the level of degradation. The OPERABILITY of the power sources are consistent with the initial condition assumptions of the safety analyses and are based upon maintaining at least one redundant set of onsite A.C. and D.C. power sources and associate distribution systems OPERABLE during accident conditions coincident with an assumed loss of offsite power and single failure of the other onsite A.C. source."

Based upon the above, we have determined that the amendment request does 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, and therefore does not involve a significant hazards consideration.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Accordingly, the staff proposes to determine that the proposed changes to the TS involve no significant hazards consideration.

Local Public Document Room location: Indian River Junior College Library, 3209 Virginia Avenue, Fort Pierce, Florida 33450

Attorney for licensee: Harold F. Reis, Esquire, Newman and Holtzinger, 1615 L Street, NW., Washington, DC 20036

NRC Project Director: Herbert N. Berkow

Florida Power and Light Company, Docket No. 50-251, Turkey Point Plant, Unit 4, Dade County, Florida

Date of amendment request: November 17, 1989

Description of amendment request: The proposed amendment would delete License Condition 3.J which applied the International Atomic Energy Agency (IAEA) safeguards inspection program to Turkey Point Unit 4. In early 1988, the IAEA informed the U.S. Department of State that Turkey Point Unit 4 had been deleted from its safeguards inspection program. In a December 2, 1988, letter from the NRC, Florida Power and Light (FPL) was informed that the license condition was terminated and could be deleted. The purpose of this license amendment is to complete the administrative paperwork to remove an obsolete license condition from the Turkey Point license.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

An evaluation of the proposed change in accordance with the above three standards has determined the following:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated because neither the original imposition of the license condition nor its deletion adversely affects the design, analysis or operation of any structure, system or component required for the safety of Turkey Point Unit 4. All IAEA activities at Turkey Point Unit 4 have been terminated. Therefore, the license condition has been satisfied and this change, which deletes the completed condition from the license, is only administrative in nature.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated because there is no adverse impact on the design, analysis or operation of structures, systems or components required for safety at Turkey Point Unit 4. The change deletes a completed license condition and is only administrative in nature.

3. The proposed change does not involve a significant reduction in a margin of safety because the change is administrative in nature and does not relate to or modify the safety margins which have been previously reviewed and approved by the NRC.

Based on the above evaluation of no significant hazards consideration and that the NRC staff has previously informed FPL that the need for the license condition no longer exists, the staff believes that the three standards of 10 CFR 50.92 have been met. Therefore, the staff proposes to determine that the proposed amendment does not involve a significant hazards consideration.

Local Public Document Room location: Environmental and Urban Affairs Library, Florida International University, Miami, Florida 33199

Attorney for licensee: Harold F. Reis, Esquire, Newman and Holtzer, P.C., 1615 L Street, NW., Washington, DC 20036

NRC Project Director: Herbert N. Berkow

Niagara Mohawk Power Corporation, Docket No. 50-220, Nine Mile Point Nuclear Station, Unit No. 1, Oswego County, New York

Date of amendment request: June 20, 1988, as supplemented October 19, 1989

Description of amendment request: Niagara Mohawk Power Corporation, holder of Facility Operating License No. DPR-63, requests that certain changes be made to the Technical Specifications (TS) set forth in Appendix A to that license. The changes concern the suppression chamber water level instrumentation and several administrative changes. The suppression chamber water level instrumentation was added to TS 3/4.6.11 "Accident Monitoring Instrumentation" in Amendment No. 72 on April 1, 1985. TS 3/4.3.2 and 3/4.6.11 provide limiting conditions for operation (LCO) and surveillance requirements (SR) for this instrumentation which is essentially equivalent to that also provided in TS 3/4.6.2; specifically: TS 3/4.6.2.a, 3.6.2.a(12), Tables 3.6.2.l and 4.6.2.l and Bases 3/4.6.2. Therefore, the licensee's basis for removal is that since TS 3/4.3.2 and 3/4.6.11 provide the requirement to monitor water level and the associated LCO's and SR's the TS 3/4.6.2.a, 3.6.2.a(12) and Tables 3.6.2.l and 4.6.2.l may be removed. The Bases for TS 3/4.6.2 and 3/4.6.11 would be revised to reflect these changes.

The licensee proposes to remove these requirements from TS 3/4.6.2 and to rely on TS 3/4.3.2 and 3/4.6.11 requirements for this instrumentation and thereby to provide clearer and more straightforward direction regarding this parameter. The licensee proposes that this change will also improve readability and operator interpretation and will be consistent with staff guidance regarding accident monitoring instruments.

The licensee has also proposed administrative changes which include (a) the renumbering of Tables 3.6.2.m and 4.6.2.m to account for the removal of the preceding Tables 3.6.2.l and 4.6.2.l and (b) inclusion in the TS table of contents pages of the titles of sections 3/4.2.6 and 3/4.6.3 which are consistent with that already provided in TS Sections 3/4 2.6 and 3/4.6.3.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with a proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has provided the following analysis:

The proposed changes to delete the requirements for the suppression chamber water level instrumentation from Specification 3.6.2 will not increase the probability or consequences of an accident previously evaluated since these requirements currently exist in Specifications 4.3.2 and 4.6.11. The daily suppression chamber water level check required by existing Specification 4.3.2 provides an equivalent determination of acceptable operability for this instrumentation to the once/day sensor check being deleted in Table 4.6.21. The deletion of the requirement in Specification 4.6.2 to perform an instrument calibration every six months for the suppression chamber water level monitor will be replaced by the requirement in Specification 4.6.11 to perform an instrument calibration once during each major refueling outage. This change is consistent with the channel calibration frequency recommended by the NRC in Generic Letter 83-36, "NUREG-737 Technical Specifications" and therefore, will have no impact on the probability or consequence of an accident previously evaluated.

The proposed changes do not involve the addition of any new hardware or equipment to the plant nor do these changes affect the design or operation of the suppression chamber water level instrumentation. Therefore, these changes do not create the possibility of a new or different kind of accident from any previously evaluated.

The proposed changes do not affect the operation of the suppression chamber water level instrumentation or its setpoint. The deletion of the once/day sensor check in Specification 4.6.21 will not result in a significant reduction in a margin of safety, as the daily suppression chamber water level check required by existing Specification 4.3.2 provides an equivalent surveillance requirement. The decrease in the surveillance frequency for the instrument channel calibration from once every six months to once during each refueling outage will not result in a significant reduction in a margin of safety, as our experience with the calibration of these instruments has shown that a calibration once during each refueling outage is adequate. The changes will provide the correct specification for action to be taken if the suppression chamber water level instrumentation becomes inoperable. Therefore, the proposed amendment does not involve a 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. Therefore, the staff proposes to determine that the application for amendment involves no significant hazards consideration.

The changes to renumber pages and to include TS section titles in the table of contents are administrative in nature. The Commission has provided guidance for the application of criteria for no significant hazards consideration determination by providing examples of amendments that are considered not likely to involve significant hazards considerations (51 FR 7751). These examples include: Example (i) "A purely administrative change to technical specification: For example, a change to achieve consistency throughout the technical specifications, corrections of an error, or a change in nomenclature." The proposed changes, as discussed above, are examples of such administrative changes. Since these proposed changes are encompassed by an example for which no significant hazard exists, the staff has made a proposed determination that they involve no significant hazards consideration.

Local Public Document Room location: Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

Attorney for licensee: Troy B. Conner, Jr., Esquire, Conner & Wetterhahn, Suite 1050, 1747 Pennsylvania Avenue, NW., Washington, DC 20006.

NRC Project Director: Robert A. Capra

Niagara Mohawk Power Corporation, Docket No. 50-410, Nine Mile Point Nuclear Station, Unit No. 2, Scriba, New York

Date of amendment request: August 3, 1988

Description of amendment request: The proposed amendment would revise Section 3/4.3.3, Emergency Core Cooling System Actuation Instrumentation, Section 3/4.3.5, Reactor Core Isolation Cooling System Actuation Instrumentation, and the associated basis to reflect revised design calculations. The Technical Specifications currently specify the Condensate Storage Tank (CST) levels at which HPCS pump suction and RCIC pump suction transfer from the Condensate Storage Tanks to the suppression pool. However, pump suction pressure provides a better means of addressing suction transfer from the HPCS and RCIC systems than CST level. The actuation pressures remain constant at all flow conditions while the CST levels vary. The proposed change would revise the Technical Specifications to reflect the setpoint of the pressure switch which controls suction transfer.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with a proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety. The licensee has provided the following analysis:

The proposed amendment would not involve a significant increase in the probability or consequences of an accident previously evaluated. The minimum required submergence levels to prevent vortexing in the tank have not changed. The Allowable Values and Nominal Trip Setpoints proposed in the amendment will assure actuation occurs above the minimum submergence levels under all flow conditions. As a result, HPCS and RCIC pump performance will not be affected. The response of the HPCS and RCIC systems to previously analyzed accidents is not impacted. Therefore, operation of Nine Mile Point Unit 2, in accordance with the proposed amendment, will not involve a significant increase in the probability or consequences of an accident previously analyzed.

The proposed amendment would not create the possibility of a new or different kind of accident from any accident previously evaluated. Pump suction pressure provides a better means of addressing suction transfer of the HPCS and RCIC systems than specifying a tank level. The design of the HPCS and RCIC systems has not been changed, and the performance of systems and components remains within the bounds of previous assumptions. Therefore, the operation of Nine Mile Point Unit 2, in accordance with the proposed amendment, will not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed amendment would not involve a significant reduction in a margin of safety. The Analytical Limits specified will assure that actuation occurs above the minimum submergence depth under all flow conditions. The Allowable Values proposed provide sufficient margin between the Analytical Limits and the Allowable Values to account for instrument and calibration accuracies. Drift is accounted for between the Allowable Values and Nominal Trip Setpoints such that the Allowable Values will not be exceeded during a calibration interval. Therefore, operation of Nine Mile Point Unit 2, in accordance with the proposed amendment, will not involve a significant reduction in any margin of safety.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Therefore, the staff proposes to determine that the application for amendment involves no significant hazards consideration.

Local Public Document Room location: Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

Attorney for licensee: Mark Wetterhahn, Esq., Conner & Wetterhahn, Suite 1050, 1747 Pennsylvania Avenue, NW., Washington, DC 20006.

NRC Project Director: Robert A. Capra

Niagara Mohawk Power Corporation, Docket No. 50-410, Nine Mile Point Nuclear Station, Unit No. 2, Oswego County, New York

Date of amendment request: July 26 and December 14, 1989

Description of amendment request: The proposed amendment would revise Technical Specifications Section 3/4.9.7, Crane Travel - Spent Fuel Storage Pool. The current Technical Specifications do not allow loads in excess of 1000 pounds to travel over fuel assemblies in the spent fuel storage pool racks. Refueling operations require movement of the spent fuel pool gates weighing over 1000 pounds from their installed position in the transfer canal to their storage location on the side of the spent fuel pool. Eventually, as the number of fuel assemblies stored in the fuel pool increases, the pool gates will travel over the stored fuel assemblies. The change to Technical Specifications Section 3.9.7 would permit the travel of loads in excess of 1000 pounds over fuel assemblies in the spent fuel storage pool racks provided these loads are handled by a single failure-proof handling system. The proposed amendment would modify Surveillance Requirements 4.9.7 accordingly.

The staff requested additional information regarding the previously existing accident analyses relative to this issue. The licensee provided the following discussion in response:

Movement of heavy loads and the possibility of an accidental load drop are addressed and evaluated in Appendix 9C of the Nine Mile Point Unit 2 USAR, "The Control of Heavy Loads at Nine Mile Point Unit 2". Section 3 of this appendix discusses compliance with Sections 5.1.1 and 5.1.6 of NUREG 0612, "Control of Heavy Loads at Nuclear Power Plants". In accordance with NUREG 0612, compliance with these sections provides assurance that the potential for a load drop is negligible. As discussed in the Amendment Application dated July 26, 1989, and documented in Appendix 9C of the Nine Mile Point Unit 2 USAR, Nine Mile Point Unit 2 meets the guidelines of NUREG 0612. The transfer of the spent fuel pool gates is discussed in Appendix 9C and the safe load paths are illustrated in Figure 5-2.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with a proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety. The licensee provided the following analysis in its initial submittal dated July 16, 1989:

1) The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated because the probability of an accidental load drop while handling heavy loads over the spent fuel pool is extremely small and within the guidelines or NUREG-0612. Interlocks continue to provide assurance that the spent fuel cask cannot

accidentally drop into the spent fuel pool. The single failure-proof aspects of the polar crane design include complete redundancy for sheaves, ropes, reeving, reducing gears, holding brakes, and other load path components of the main hoist.

2) The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated. When handling a spent fuel shipping cask, the spent fuel pool and any stored fuel assemblies are isolated from a postulated fuel cask handling accident. Travel restrictions on the Reactor Building Polar Crane ensure the cask will not travel over the spent fuel pool. The function and performance of systems and components on the Reactor Building Polar Crane, as well as the seismic qualification of the Reactor Building Polar Crane, have not been affected. Therefore, the Reactor Building Polar Crane is still in compliance with the applicable regulatory requirements.

3) The proposed amendment does not involve a significant reduction in a margin of safety. Loads in excess of 1000 pounds over the spent fuel pool will be handled by a single failure-proof handling system. Thus, the probability of a load drop is sufficiently small such that the activity release from a fuel handling accident assumed in the safety analyses will not be affected. The dropping of a load weighing less than the nominal weight of a fuel assembly (i.e., 1000 pounds) would result in activity release limited to that contained in a single fuel assembly and could not result in a critical array due to distortion of the fuel. This is consistent with the assumptions contained in the safety analyses.

In addition, the licensee stated in its supplemental response of December 14, 1989 that since movement of the fuel pool gates is already fully evaluated in Appendix 9C of the UFSAR, the proposed change will not increase the probability of a previously evaluated accident nor will it create the possibility of a previously unevaluated accident. The change is required to permit operation in a previously evaluated mode. There is no significant reduction in any margin of safety since the existing analysis demonstrates that the probability of a load drop is negligible.

The staff agrees with the licensee's analyses. Therefore, the staff proposes that the amendment will not involve a significant hazards determination.

Local Public Document Room location: Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

Attorney for licensee: Troy B. Conner, Jr., Esquire, Conner & Wetterhahn, Suite 1050, 1747 Pennsylvania Avenue, NW., Washington, DC 20006.

NRC Project Director: Robert A. Capra

Niagara Mohawk Power Corporation, Docket No. 50-410, Nine Mile Point Nuclear Station, Unit No. 2, Scriba, New York

Date of amendment request: August 17, 1989

Description of amendment request: As stated in the licensee's application and in the updated FSAR, the portion of the nuclear boiler Leak Detection System (LDS) in the main steam tunnel is used to detect leakage from the main steam line and to initiate signals used for automatic closure of the main steam isolation valves. The sensitivity of the portions of the LDS in the main steam tunnel and lead enclosure area, as described in the UFSAR, is such that it would detect increases in ambient air temperatures which would be equivalent to a reactor coolant leakage into the area of 25 gpm.

The proposed amendment would change Technical Specifications 3.3.2 and 4.3-2 to increase the Trip Setpoints and Allowable values for high absolute and differential temperature isolation instrumentation systems in the main steam tunnel. In early July 1989, the high temperatures existing in the Main Steam Line Lead Enclosure resulted in Nine Mile Point Unit 2 operating in half isolation condition. The proposed change would increase the operating margin and reduce unnecessary challenges to the plant shutdown system.

Therefore, the licensee's proposed changes reflect the need to increase the assumption for the initial ambient space temperatures, based on actual measured data during the plant's first operating cycle, while maintaining the sensitivity required to detect a leakage of 25 gpm in these spaces.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with a proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

The licensee has provided the following analysis:

The LDS instrumentation in the main steam line tunnel isolates the Main Steam Isolation Valves upon sensing a steam leak of 25 gpm. The proposed setpoint values provide the same level of protection against a main steam line break as the existing values. The proposed setpoints will increase operating margin, and reduce unnecessary challenges to the plant shutdown systems. Therefore, this change will not involve a significant increase in the probability or consequences of an accident previously evaluated.

The qualification of safety-related equipment in the main steam tunnel has been evaluated against the increase in maximum normal design and post-accident temperatures. Component qualified life has been adjusted accordingly, thereby assuring that instrumentation response to previously evaluated accidents will not be adversely affected. Further, all safety-related systems and components remain within their applicable design limits. Thus, system and component performance is not adversely affected by this change, thereby assuring that design capabilities of those systems and components are not challenged in a manner not previously evaluated so as to create the possibility of a new or different kind of accident from any previously evaluated.

The proposed change increases the existing Setpoints and Allowable Values for Main Steam Line Tunnel Temperatures. The change in the process safety limit is a result of utilizing as-tested and as-built data, and does not reduce the safety margin assumed in the analysis. The allowances provided between the Process Safety Limits and the Allowable Values and the Setpoints, have been evaluated against the increased temperatures. The reduction in allowances will not affect the ability of the instrumentation system to actuate prior to the temperature in the main steam tunnel reaching a process safety limit. Therefore, the proposed change does not result in 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. Therefore, the staff proposes to determine that the application for amendment involves no significant hazards consideration.

Local Public Document Room location: Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

Attorney for licensee: Mark Wetterhahn, Esq., Conner & Wetterhahn, Suite 1050, 1747 Pennsylvania Avenue, NW., Washington, DC 20006.

NRC Project Director: Robert A. Capra

Niagara Mohawk Power Corporation, Docket No. 50-410, Nine Mile Point Nuclear Station, Unit No. 2, Scriba, New York

Date of amendment request: November 17, 1989

Description of amendment request: The proposed amendment would revise Technical Specification Section 3/4.7.5

which provides the operability and surveillance requirements for snubbers installed at Nine Mile Point Unit 2. The proposed revisions incorporate the most recent recommendations contained in the American Society of Mechanical Engineers document, "Examination and Performance Testing of Nuclear Power Plant Dynamic Restraints (Snubbers) OM4, Revision 2, Draft 7 (Editorial 5/88)." This document has been endorsed by the Commission. By the proposed change the three sample plans currently contained in Technical Specification 4.7.5.e would be replaced by two sample plans in accordance with the guidelines of OM4. The two sample plans provide reduced testing and, therefore, a reduction of man-rem exposure while still providing adequate assurance of snubber reliability. Accordingly, Figure 4.7.5-1 would be revised to reflect the changes to Technical Specification 4.7.5.e. The proposed amendment would also revise Technical Specification 4.7.5.g to add unexpected transient events as a cause of locked-up snubbers requiring that all snubbers of the same type, subject to the same defect, be functionally tested. The proposed amendment would replace the title "Inspection Types" currently used in Technical Specification 4.7.5.a with "Snubber Types" to be consistent with the terminology used in Technical Specification 4.7.5.a.

Additionally, Technical Specification 4.7.5.b would be changed to describe more accurately what time period is implied by the terms "first refueling outage." Section 4.7.5.b would read "first refueling outage (18 months ± 25%)."

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with a proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

The licensee has provided the following analysis in its November 17, 1989 submittal:

(1) the proposed amendment does not involve a significant increase in the probability or consequence of an accident previously evaluated. Reducing the percentage of additional snubbers to be tested from 10% to 5% for "10 percent plan" does not undermine the effectiveness of this surveillance. The initial test remains the same and is sufficient to provide an adequate sampling of the snubbers. This change reduces the amount of additional testing without affecting the previously established confidence level.

Deleting the "reject" line from "37 plan" does not affect acceptance of the snubber population because snubbers must continue to be tested until the acceptance criteria are met or until all snubbers have been tested. Deletion of the "reject" line from the "37 plan" also makes the "55 plan" unnecessary. Statistical studies indicate that these changes do not reduce the previously established confidence level and thus have no affect on the structural integrity of the reactor coolant system and other safety related systems under dynamic loading. Hence the probability or consequences of previously evaluated accidents are not significantly increased.

(2) The proposed amendment does not create the possibility of a new or different kind of accident from many accidents previously evaluated because it involves no changes to system design bases or system function and does not introduce any new variables beyond those previously considered.

(3) The proposed amendment does not involve a significant reduction in the margin of safety. Although the proposed amendment does not involve changes in surveillance frequency or operating conditions, they do involve changes in surveillance methods and sample size but no individual acceptance criteria. However, statistical evidence indicates that while the probability of acceptance of a bad snubber population under the proposed amendment still exists, it does not represent a significant reduction to the margin of safety.

Based on the above, the staff proposes that the amendment will not involve a significant hazards consideration.

Local Public Document Room location: Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

Attorney for licensee: Mark Wetterhahn, Esq., Conner & Wetterhahn, Suite 1050, 1747 Pennsylvania Avenue, NW., Washington, DC 20006.

NRC Project Director: Robert A. Capra

South Carolina Electric & Gas Company, South Carolina Public Service Authority, Docket No. 50-395, Virgil C. Summer Nuclear Station, Unit No. 1, Fairfield County, South Carolina

Dates of amendment request: July 21, 1989, September 21, 1989, and December 11, 1989

Description of amendment request: Technical Specifications 3/4.8.1.1 and 3/4.8.1.2, A.C. Sources, ensure that sufficient power is available to supply safety related equipment that is required for the safe shutdown of the plant or mitigation and control of accident conditions. One way this is accomplished is by maintaining the fuel oil storage volume requirements of these specifications which is 42,500 gallons for specification 3/4.8.1.1 (Modes 1-4) and 30,000 gallons for specification 3/4.8.1.2 (Modes 5 & 6).

On April 28, 1989 South Carolina Electric & Gas Company (SCE&G) recognized that the current design basis calculations under ANSI standard N195-1976 yielded fuel oil storage requirements of 47,100 gallons in Modes 1 thru 4 and 33,200 gallons in Modes 5 and 6. Therefore, it is requested that the fuel oil storage system requirements be changed from 42,500 gallons to 47,100 gallons for Specification 3/4.8.1.1 and from 30,000 gallons to 33,200 gallons for Specification 3/4.8.1.2, and that a change to the specification Bases 3/4.8, Electrical Power Systems, be made to clarify the origin of the fuel oil system volume requirements.

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.

SCE&G has determined that no significant hazard considerations exist as explained by the following:

1. This change does not involve a significant increase in the probability or consequences of any accident previously [evaluated]. This is due to the change imposing more restrictive limits than currently exist thus relaxing, [SIC] the potential for, and, [SIC] the results of, any of the previously evaluated accidents involving the operability of the Diesel Generators.

2. This change does not create the possibility of a new or different [type] of accident from any accident previously evaluated because the increase in the Fuel Oil Storage requirement ensures a higher level of reliability for the Diesel Generators.

3. This change does not involve a significant reduction in a margin of safety since the increase in fuel oil storage requirements represents a more restrictive limit than currently exist [SIC] and, therefore, represents and [SIC] enhancement to safety.

The SCE&G has concluded that the proposed amendment meets the three standards in 10 CFR 50.92 and,

therefore, involves no significant hazards consideration.

The NRC staff has made a preliminary review of the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Accordingly, the Commission proposes to determine that the requested amendment does not involve a significant hazards consideration.

Local Public Document Room location: Fairfield County Library, Garden and Washington Streets, Winnsboro, South Carolina 29180

Attorney for licensee: Randolph R. Mahan, South Carolina Electric & Gas Company, P.O. Box 764, Columbia, South Carolina 29218

NRC Project Director: Elinor G. Adensam

South Carolina Electric & Gas Company, South Carolina Public Service Authority, Docket No. 50-395, Virgil C. Summer Nuclear Station, Unit No. 1, Fairfield County, South Carolina

Dates of amendment request: July 27, 1989 and September 21, 1989

Description of amendment request: The proposed amendment revises Surveillance Requirement 4.8.1.1.2 of Technical Specification 3/4.8.1, "A. C. Sources," with respect to diesel fuel oil storage, monitoring, sampling and analysis. The proposed change will add a surveillance requirement to check for and remove any accumulated water in the fuel oil storage tanks every 31 days, and will specify that samples will be obtained and analyzed in accordance with ASTM-D4057-81 and ASTM-D975-81.

For the proper operation of the diesel generators, it is necessary to ensure the proper quality of the fuel oil. Periodically and upon replenishment of the fuel oil, a surveillance is performed to establish that the diesel generator fuel oil meets the NRC guidelines on kinematic viscosity, water and sediment content, and specific gravity per Regulatory Guide 1.137, Revision 1, "Fuel-Oil Systems for Standby Diesel Generators" (October 1979). This proposed change is consistent with NUREG-0452, "Standard Technical Specifications for Westinghouse Pressurized Water Reactor," and will ensure the proper quality fuel oil for operation of the diesel generator.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a no significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has reviewed the amendment request and determined that should this request be implemented it will not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated. No change to the design or function of any plant system is proposed. The proposed standard for diesel fuel oil acceptability will assure that so far as the fuel is concern, the Emergency Diesel Generator System (EDGS) will continue to function reliably and can continue to be credited for operation in those instances presently required in the safety analysis. The fuel oil surveillance program will continue to ensure that an adequate supply of quality fuel oil is maintained onsite.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated. No change in EDGS operation or reliability will result from the proposed change in allowable fuel properties. The proposed change is limited to the sampling and analysis of diesel fuel oil.

3. Create a significant reduction in a margin of safety. A comparison between acceptability standards, [SIC] for Grade No. 2 Diesel Fuel Oil between ASTM-D975-77 Table 1 and ASTM-D975-81 Table 1 indicates no difference.

The licensee has concluded that the proposed amendment meets the three standards in 10 CFR 50.92 and, therefore, involves no significant hazards consideration.

The NRC staff has made a preliminary review of the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Accordingly, the Commission proposes to determine that the requested amendment does not involve a significant hazards consideration.

Local Public Document Room location: Fairfield County Library, Garden and Washington Streets, Winnsboro, South Carolina 29180

Attorney for licensee: Randolph R. Mahan, South Carolina Electric & Gas Company, P.O. Box 764, Columbia, South Carolina 29218

NRC Project Director: Elinor G. Adensam

South Carolina Electric & Gas Company, South Carolina Public Service Authority, Docket No. 50-395, Virgil C. Summer Nuclear Station, Unit No. 1, Fairfield County, South Carolina

Dates of amendment request: August 10, 1989 and December 11, 1989

Description of amendment request: The amendment is administrative in nature in that it renumbers Section 3/4.7.11 to 3/4.7.9 to agree with related changes contained within Amendment 79 to the Facility Operating License.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a no significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has provided the following no significant hazards consideration determination:

The proposed amendment does not involve a significant increase in the probability or consequence of an accident previously evaluated because the administrative change does not affect plant operation in any manner.

The proposed amendment does not create the possibility of a new or different kind of accident than previously evaluated because the proposed change is administrative in nature and no physical alterations of plant configuration or changes to setpoints or operating parameters are proposed.

The proposed amendment does not involve a significant reduction in the margin of safety. The amendment is administrative in nature in that it renumbers Section 3/4.7.11 to 3/4.7.9 to agree with related changes contained within Amendment 79 to the Facility Operating License.

Pursuant to 10 CFR 50.91, the licensee had determined that the proposed change poses no significant hazards consideration as defined by 10 CFR 50.92.

The NRC staff has made a preliminary review of the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Accordingly, the Commission proposes to determine that the requested amendment does not involve a significant hazards consideration.

Local Public Document Room location: Fairfield County Library, Garden and Washington Streets, Winnsboro, South Carolina 29180

Attorney for licensee: Randolph R. Mahan, South Carolina Electric & Gas Company, P.O. Box 764, Columbia, South Carolina 29218

NRC Project Director: Elinor G. Adensam

South Carolina Electric & Gas Company, South Carolina Public Service Authority, Docket No. 50-395, Virgil C. Summer Nuclear Station, Unit No. 1, Fairfield County, South Carolina

Date of amendment request: September 19, 1989 and December 11, 1989

Description of amendment request: Technical Specification 4.4.5.4.a.10, "Acceptance Criteria-Repaired Tube," presently allows steam generator tube repair using the Combustion Engineering sleeve process. The requested Technical Specification change will allow the use of B&W sleeves for steam generator tube repair. The change requires referencing B&W topical report BAW-2045P, "Recirculating Steam Generator Kinetic Sleeve Qualification for 3/4 Inch O. D. Tubes," in Technical Specification Section 4.4.5.4.a.10. The topical was submitted to the NRC by a letter dated June 9, 1988, from Mr. James H. Taylor of Babcock & Wilcox (B&W) to Mr. L. C. Shao of the NRC. A supplement to the original B&W submittal was made on December 12, 1988 which contained answers to NRC questions and transmitted a non-proprietary version of the topical. The currently allowed Combustion Engineering sleeve process will be retained in the Technical Specifications as an option.

The basis for steam generator tube surveillance and repair is to ensure that the structural integrity of the tubes is maintained. The sleeving process is one method of dispositioning a degraded tube. The advantage of sleeving versus plugging is that the tube is allowed to remain in service. The structural integrity of the tube is maintained with minimal reduction in flow and heat transfer capabilities. Therefore, the repaired tube functions in essentially the same manner as the original tube.

The proposed Technical Specification change is requested to provide SCE&G with another alternative for handling degraded tubes. The B&W sleeve is qualified for two lengths. The shorter sleeve may be utilized in all steam generator tubes and is, therefore, more versatile than the currently approved Combustion Engineering sleeve.

Also, an editorial numbering/title revision is being made to Section 4.4.5.4.a.6 to more clearly delineate tube versus sleeve plugging or repair limits by adding item 4.4.5.4.1.7 and renumbering subsequent items.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a no significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The purpose of a sleeve is to repair a degraded steam generator tube in order to maintain the function and integrity of the tube. The sleeve functions in essentially the same manner as the orginal tube. B&W topical report BAW-2045P describes in detail the analytical methods used for design and qualification of the B&W sleeve. Table 4.1.1, "Summary of RSG Sleeve Requirements," lists the specifications (mainly ASME Boiler and Pressure Vessel code requirements) used in design, procurement and qualification of the sleeve. Table 4.2.2, "Steam Generator Design Transients," summarizes the transients used to establish sleeve loading.

Pursuant to 10 CFR 50.91, the licensee provided a determination that the proposed change poses no significant hazard as defined by 10 CFR 50.92 as follows:

1) The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated. The steam generator tube rupture accident is the only previously evaluated accident which may have been significantly affected by this change. However, the steam generator sleeve has been analyzed and tested to the operating and design conditions of the original tube as documented in BAW-2045P. The topical report contains the design verification results from the analysis and confirmation testing performed on the sleeve. The probability or consequences of previously evaluated accidents is not increased by this change since the sleeve meets the original tube design conditions and the structural integrity of the tube is maintained by the sleeving process.

In addition, the sleeve is less susceptible to the identified stress corrosion failure mechanisms of the original tube because of the use of an improved material, Alloy 690 Inconel, and the B&W specified installation process. The continued integrity of the sleeve will be verified by the Technical Specification inspection requirements and the sleeve will be plugged in accordance with Technical Specification 4.4.5.4.1.7 evaluation and acceptance criteria.

2) The numbering/title revision is purely editorial in nature and has no technical impact.

The proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

The purpose of the sleeve is to repair a degraded steam generator tube in order to maintain the function and integrity of the tube. The sleeve functions in essentially the same manner as the original tube and has been analyzed and tested for the steam generator design conditions. Repairing the tube to a serviceable condition utilizing this sleeving process does not create the possibility of a new or different kind of accident since the sleeve is a passive component with failure mechanisms that should be similar to the original tube.

3) The proposed change does not involve a significant reduction in a margin of safety.

The potential for primary to secondary leakage is reduced the the addition of a steam generator tube sleeve. Also, the structural integrity of the tube is maintained by the sleeve and sleeve/tube weld.

The proposed sleeving technique provides an increased margin of safety over plugging the tube and removing it from service. The effect of sleeve installation on steam generator performance was analyzed for heat transfer, flow restriction and steam generation capacity. The results show that plugging one tube is equivalent to the heat transfer reduction of sleeving 48 tubes, the primary flow reduction of sleeving 20 tubes, and loss of steam generation capacity of sleeving 40 tubes. Therefore, sleeving provides additional margin when compared to the plugging alternative.

The licensee has concluded that the proposed amendment meets the three standards in 10 CFR 50.92 and, therefore, involves no significant hazards consideration.

The NRC staff has made a preliminary review of the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Accordingly, the Commission proposes to determine that the requested amendment does not involve a significant hazards consideration.

Local Public Document Room location: Fairfield County Library, Garden and Washington Streets, Winnsboro, South Carolina 29180

Attorney for licensee: Randolph R. Mahan, South Carolina Electric and Gas Company, P.O. Box 764, Columbia, South Carolina 29218

NRC Project Director: Elinor G. Adensam

South Carolina Electric & Gas Company, South Carolina Public Service Authority, Docket No. 50-395, Virgil C. Summer Nuclear Station, Unit No. 1, Fairfield County, South Carolina

Date of amendment request: November 20, 1989

Description of amendment request: Technical Specification (TS) 3/4.7.1.5, "Main Steam Isolation Valves" (MSIV), surveillance requirements limits the stroke time to a maximum of five seconds when the valves are being

tested to satisfy specification 4.0.5. The licensee proposed to change this limit to seven seconds.

The MSIV's are required to be operable to ensure that no more than one Steam Generator will blowdown in the event of a steam line rupture. The closure time of the surveillance is specified for consistency with the assumptions in the accident analyses.

The MSIV's were designed with a closure time of five seconds. This short time essentially prevents any stroke time degradation from being tolerated since the TS limit is also five seconds. Because there is no allowance for stroke time degradation, a meaningful trend of valve performance cannot be established. The change to seven seconds would allow for problem analysis and pre-planning of corrective maintenance. The change to a seven second limit on stroke time would also remain consistent with actuation times assumed in the accident analysis which are 10 second actuation time for Main Steam Isolation on Reactor Building Pressure, High-2 and 10 second actuation time for Main Steam Isolation on Steam Line Pressure, Low.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a no significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has concluded that the proposed amendment meets the three standards in 10 CFR 50.92 and, therefore, involves no significant hazards consideration for the following reasons:

This change does not affect [i.e., involve a significant increase in the probability or consequences of] any previously evaluated accidents. Engineered Safety Feature Actuation System (ESFAS) response times required by Specification 3.3.2 ensures that actuation times are within those assumed in the accident analyses. The most limiting ESFAS response time requirement is Reactor Building Pressure High-2 response time of nine seconds. The limit being changed does not affect ESFAS response time limits. However, the seven second limit remains consistent with the ESFAS response time requirements; therefore, it also remains consistent with the assumptions of previously evaluated accidents.

The proposed change does not created the possibility of a new or different kind of accident from any previously evaluated because the change does not alter any plant hardware, and the allowed stroke time addressed in this change is bounded by the actuation time requirement of Specification 3.3.2 which assures previously evaluated assumptions are met. Therefore, the change remains within the criteria of previously evaluated accidents.

The proposed change does not involve a significant reduction in the margin of safety due to the fact the Technical Specification Basis for the limit is to keep the valve stroke time within the assumptions used in the accident analysis and the new limit remains within those assumptions.

The NRC staff has made a preliminary review of the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Accordingly, the Commission proposes to determine that the requested amendment does not involve a significant hazards consideration.

Local Public Document Room location: Fairfield County Library, Garden and Washington Streets, Winnsboro, South Carolina 29180

Attorney for licensee: Randolph R. Mahan, South Carolina Electric & Gas Company, P.O. Box 764, Columbia, South Carolina 29218

NRC Project Director: Elinor G. Adensam

South Carolina Electric & Gas Company, South Carolina Public Service Authority, Docket No. 50-395, Virgil C. Summer Nuclear Station, Unit No. 1, Fairfield County, South Carolina

Date of amendment request: November 20, 1989

Description of amendment request: Technical Specification 3/4.3.3.6, "Accident Monitoring Instruments," presently requires two channels of Reactor Building RHR Sump Level (Item 13 in Table 3.3-10 and 4.3-7) and two channels of Reactor Building Level (Item 14 in Tables 3.3-10 and 4.3-7). South Carolina Electric & Gas Company requests a deletion of "Reactor Building Level" from the tables and modification of the "Reactor Building RHR Sump Level" to read "Reactor Building/RHR Sump Level."

The Technical Specifications bases for accident monitoring instruments are to provide sufficient information from selected parameters to monitor and assess these variables following an accident and to remain consistent with recommendations of Regulatory Guide 1.97.

The proposed change in Technical Specifications is requested as part of a planned modification. This modification integrates the Reactor Building RHR Level Instrument and the Reactor Building Level Instrument into a new single instrument. This will be done for each channel.

The new instrument provides indication over the range previously provided by the combination of both of the old instruments. The modification accomplishes two positive benefits. One being the removal of a piece of equipment from inside containment without removing its function. The other benefit is the new instrument is less susceptible to environmental hazards.

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.

Upon review of the proposed amendment, SCE&G determined that no significant hazard considerations exist for the following reasons:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated since the information available from accident monitoring instruments has not changed and the affected instruments are "indication only" instruments.

2. The proposed change does not create the possibility of a new or different kind of accident from any evaluated previously because the change involves passive components only.

3. The proposed change does not involve a significant reduction in the margin of safety due to the fact that the modification results in a more reliable and accurate indication of the selected parameters.

The licensee has concluded that the proposed amendment meets the three standards in 10 CFR 50.92 and, therefore, involves no significant hazards consideration.

The NRC staff has made a preliminary review of the licensee's no significant hazards consideration determination and agrees with Items 1 and 3 of the licensee's analysis. However, with respect to Item 2, the staff has concluded that the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated because the

change limits the instrument's susceptibility to evironmental hazards because it is being moved outside containment. The function of the instrument remains unchanged. The range previously provided by the combination of both of the old instruments will be covered by the new instrument. Accordingly, the Commission proposes to determine that the requested amendment does not involve a significant hazards consideration.

Local Public Document Room location: Fairfield County Library, Garden and Washington Streets, Winnsboro, South Carolina 29180

Attorney for licensee: Randolph R. Mahan, South Carolina Electric and Gas Company, P.O. Box 764, Columbia, South Carolina 29218

NRC Project Director: Elinor G. Adensam

Southern California Edison Company, et al., Docket Nos., 50-361 and 50-362, San Onofre Nuclear Generating Station, Units 2 and 3, San Diego County, California

Date of amendment request: October 19, 1989

Description of amendment request: The licensee proposed to revise the San Onofre Nuclear Generating Station, Unit Nos. 2 and 3, Technical Specifications. The proposed request would revise TS 3/4.3.2, "Engineered Safety Feature Actuation System Instrumentation," and TS 3/4.3.3.1, "Radiation Monitoring Instrumentation," to remove requirements relating to the iodine/particulate channels of the fuel handling isolation system (FHIS) airborne radiation monitors.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided the following no significant hazards consideration determination:

1. Will operation of the facility in accordance with this proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change would eliminate the iodine/particulate channels from the FHIS airborne radiation monitors. In the event of a fuel handling accident, an FHIS signal from two independent, redundant airborne radiation monitors located in the exhaust ducts (RT-7822-1 and RT-7823-2) automatically starts the post-accident cleanup units and fuel pool pump room cooling units and isolates the Fuel Handling Building by closing isolation dampers and cutting off the normal ventilation supply and exhaust subsystem. Presently, the initiating circuits for each of the subsystems are provided with two independent sensors to detect gaseous and airborne iodine/particulate radioactivity. The FHIS can also be manually initiated from the control room. The proposed change would result in the use of only the gaseous channels for alarm and isolation.

The conclusion of the analysis of a postulated fuel handling accident is discussed in FSAR Section 15.7 and evaluated in NRC Safety Evaluation Report Section 15.4.4. Both the analyses presented in the FSAR and the SER evaluation assume an instantaneous release of iodine and fission gases into the spent fuel pool area. The offsite dose calculations assume isolation and initiation of the post accident cleanup filter system at the onset of the event. The noble gas setpoint is set as close to background as possible without spurious actuation. Noble gases liberate freely in the event of a fuel handling accident, are more mobile, and are less likely to be captured or removed from the process stream than iodine or particulates. A postulated fuel handling accident will result in actuation on noble gas prior to, and without the iodine/particulate channel. The noble gas channel responds instantaneously while the iodine/particulate channel requires accumulation time to reach the setpoint established in the Technical Specifications.

The proposed change reduces the diversity of parameters used to initiate an FHIS from four channels (two iodine/particulate and two noble gas channels) to two noble gas channels. The independence and redundancy of the noble gas channels (one each on RT-7822-1 and RT-7823-2) continue to provide the necessary degree of assurance that the monitors will perform the required function of initiating an FHIS on high radiation level, instrument failure, or loss of power. The use of noble gas detection alone to initiate the protective action is consistent with the requirements of Standard Review Plan 11.5.

Continuous sampling for iodine and particulates in the effluent stream is provided by the Plant Vent Stack monitor. The effluent stream path, from the Fuel Handling Building, is into the Plant Vent Stack. Continuous sampling takes place in the Plant Vent Stack. As the Fuel Handling Building sample is combined with the gaseous radwaste system and auxiliary building, under normal circumstances, no specific accounting for the source of the activity occurs. Under unusually high conditions, i.e., elevated readings at the Plant Vent Stack, plant investigation to identify the source is initiated by operations personnel.

Therefore, this proposed change will not increase the probability or consequences of a fuel handling accident.

2. Will operation of the facility in accordance with this proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No

The proposed change does not add new equipment to the plant, but would delete equipment which solely performs the function of Fuel Handling Building isolation and post accident cleanup system actuation. Since these functions continue to be performed by the noble gas channels, the proposed change does not alter the previously analyzed fuel handling accident. Since new equipment is not added and existing process and effluent paths remain unchanged, the proposed change does not create new ways in which an accident can be initiated. Therefore, the proposed change does not create the possibility of a new or different kind of accident.

3. Will operation of the facility in accordance with the proposed change involve a significant reduction in a margin of safety?

Response: No

The proposed change places a greater reliance on the noble gas channel for initiation of Fuel Handling Building isolation and cleanup system actuation. However, iodine/particulates would not be present post accident without noble gas. The noble gas setpoint is set as close to background as possible without spurious actuation. Noble gases liberate freely in the event of a fuel handling accident, are more mobile, and are less likely to be captured or removed from the process stream than iodine or particulates. A postulated fuel handling accident will therefore result in actuation noble gas, prior to and, without the iodine/particulate channel. Therefore, the proposed change does not result in a significant reduction in the safety margin.

The NRC staff has reviewed this analysis and, based on that review, it appears that the three criteria are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: General Library, University of California, P.O. Box 19557, Irvine, California 92713.

Attorney for licensee: Charles R. Kocher, Assistant General Counsel, and James Beoletto, Esquire, Southern California Edison Company, P.O. Box 800, Rosemead, California 91770.

NRC Project Director: George W. Knighton

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

Date of amendment request: November 30, 1989

Description of amendment request: The proposed changes revise Technical Specification 3.4.1.4.2 to change a note at the bottom of page 3/4.4-6 to add the additional criterion of ensuring the reactor vessel water level is above the vessel flange before the running Residual Heat Removal (RHR) pump can be stopped in Mode 5 with the reactor coolant loops not filled. In addition, the proposed changes would revise Technical Specifications 4.9.8.1 and 4.9.8.2 to decrease the required flow rate of the running RHR pump. Finally, the proposed change would revise Technical

Specification 3.5.4, changing the mode applicability so that the safety injection pumps would be immediately available to the operators should RHR cooling be lost when the reactor coolant level is below the vessel flange.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The licensee provided an analysis that addressed the above three standards in the amendment application.

Standard 1 - Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated

These changes do not involve a significant increase in the probability or consequences of an accident previously evaluated. The change to the RHR flow rate reduces the probability of a loss of decay heat removal due to vortexing and cavitation, while the probability of accidents analyzed in the Updated Safety Analysis Report (USAR) are unaffected. A reduction of RHR flow could potentially affect decay heat removal rate, boron stratification and the boron dilution accident analysis. An evaluation concluded that the consequences of these accidents are not increased. Allowing the safety injection pumps to be operable affects the cold over-pressure analysis. Whenever the reactor coolant level is below the vessel flange, there is a minimum empty volume of approximately 17,000 gallons. These pumps would only be used in an emergency situation, while attempting to return an RHR pump to service. This empty space will allow the operators sufficient room to provide cooling to the core and still not completely fill the reactor coolant system.

Standard 2 - Create the Possibility of a New or Different Kind of Accident From any Accident Previously Evaluated

These changes do not create the possibility of a new or different kind of accident from any accident previously evaluated. The WCGS Technical Specifications do not contain provisions to minimize the potential for vortexing and air entrainment in the RHR system which may occur during RCS operation under certain conditions. Although the current requirements for minimum 2800 gpm flow rate is conservative for decay heat removal and uniform boron mixing, it is clear that minimizing the potential for vortexing was not considered when the minimum flow rate requirement was established.

Revisions to Technical Specifications 4.9.8.1 and 4.9.8.2 are proposed so that RHR system flow rate may be reduced to the greater of the flow required to maintain the water in the reactor vessel below 140° F or 1000 gpm. Although a reduced flow rate is not required for prevention of vortexing and air entrainment for water level above the reactor flange greater than 23 feet (Technical Specification 4.9.8.1), this change is being made for consistency to minimize operator confusion and human factors problems. Allowing the Safety Injection Pumps to be operable gives the Operators added flexibility in providing cooling to the core whenever RHR is lost. The requirement that the reactor coolant level be below the vessel flange prior to making the pumps operable, provides a sufficient empty volume to not completely fill the reactor coolant system.

Standard 3 - Involve a Significant Reduction in a Margin of Safety

These changes do not involve a significant reduction in a margin of safety. Operation with the RCS partially drained in MODES 5 and 6 is necessary for required inspection and maintenance on RCS components such as reactor coolant pumps and steam generators. A reduced RHR flow rate would provide a greater margin to vortexing and preclude an inadvertent loss of decay heat removal capability due to air entrainment and cavitation of the RHR pumps. The likelihood of vortexing at the suction of the RHR pumps could be lowered by reducing the RHR flow rate.

The proposed minimum flow rate of 1000 gpm ensures a sufficient flow rate as assumed in the boron dilution and boron stratification evaluations. Having reactor coolant level below the vessel flange prior to making the safety injection pumps operable provides sufficient empty volume in the reactor coolant system, to where cold over-pressure concerns are negligible.

The change that adds the restriction to the Technical Specification 3.4.1.4.2 footnote will ensure that the operating pump will not be intentionally deenergized during operation with the RCS loops partially filled.

Based on the previous discussion, the licensee concluded that the proposed amendment request does not involve a significant increase in the probability of a new or different kind of accident from any accident previously evaluated; nor involve a significant reduction in the required margin of safety. The NRC staff has reviewed the licensee's no significant hazards considerations determination and agrees with the licensee's analysis. The staff has, therefore, made a proposed determination that the licensee's request does not involve a significant hazards consideration.

Local Public Document Room Location: Emporia State Univeristy, William Allen White Library, 1200 Commercial Street, Emporia, Kansas 66801 and Washburn University School of Law Library, Topeka, Kansas 66621

Attorney for Licensee: Jay Silberg, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037

NRC Project Director: Frederick J. Hebdon

NOTICE OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing in connection with these actions was published in the **Federal Register** as indicated. No request for a hearing or petition for leave to intervene was filed following this notice.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendments, (2) the amendments, and (3) the Commission's related letters, Safety Evaluations and/or Environmental Assessments as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document rooms for the particular facilities involved. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects.

Arkansas Power & Light Company, Docket Nos. 50-313 and 50-368, Arkansas Nuclear One, Units 1 and 2, Pope County, Arkansas

Date of amendment request: July 1, 1988 as supplemented by letter dated August 15, 1989.

Brief description of amendment: The amendment revised Facility Operating License Nos. DPR-51 and NPF-6 for Arkansas Nuclear One, Units 1 and 2 to authorize Entergy Operations, Incorporated (EOI) to act on behalf of Arkansas Power and Light (AP&L), with responsibility for and control over the physical construction, operation, and maintenance of the facilities. This action is in conjunction with EOI becoming the operator of Waterford Steam Electric Station, Unit 3 and of Grand Gulf Units 1 and 2.

Date of issuance: December 14, 1989

Effective date: December 14, 1989

Amendment Nos.: 128 and 102

Facility Operating License Nos. DPR-51 and NPF-6. Amendment revised the license.

Date of initial notice in **Federal Register:** August 10, 1988 (53 FR 30126) with the supplement on September 6, 1989 (54 FR 37041) and for antitrust November 18, 1988 (53 FR 46725) with the supplement on November 1, 1989 (54 FR 46168). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 14, 1989.

Antitrust comments have been received and are addressed in the Commission's related safety evaluation.

No significant hazards consideration comments received: No.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801

Commonwealth Edison Company, Docket Nos. 50-373 and 50-374, LaSalle County Station, Unit Nos. 1 and 2, LaSalle County, Illinois

Date of application for amendments: August 18, 1989, as supplemented September 13, 1989

Brief description of amendments: The amendments revised the Technical Specifications (TS) to replace the values of the cycle-specific parameter limits with a reference to the Core Operating Limits Report, which contains the values of the cycle-specific parameter limits. The associated Bases of the TS were also revised to reflect the changes and Section 1.0 of the TS was modified to include the definition of the Core Operating Limits Report. Additionally, the amendments administratively renumbered and reorganized the Definition Section and the Table of Contents, and made editorial changes.

Date of issuance: December 18, 1989

Effective date: December 18, 1989

Amendment Nos.: 70 and 54

Facility Operating License Nos. NPF-11 and NPF-18. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** October 4, 1989 (54 FR 40926). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated December 18, 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

Consolidated Edison Company of New York, Docket No. 50-247, Indian Point Nuclear Generating Unit No. 2, Westchester County, New York

Date of application for amendment: June 12, 1989, as clarified July 11, 1989.

Brief description of amendment: The amendment (1) revises the allowable out-of-service time in Technical Specification (TS) 3.3.B.2.c for inoperable containment spray system valves from 24 hours to 72 hours, (2) adds a new TS 3.3.B.2.d permitting reactor operation to continue for up to 72 hours with the spray additive tank and its associated piping, valves and eductors inoperable provided certain conditions are satisfied, and (3) adds a new TS 3.7.B.5 permitting reactor operation to continue for up to 24 hours with one of the battery chargers associated with station batteries 21, 22, 23 and 24 inoperable provided certain conditions and actions are satisfied.

Date of issuance: December 7, 1989

Effective date: December 7, 1989

Amendment No.: 144

Facility Operating License No. DPR-26: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** September 20, 1989 (54 FR 38763). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 7, 1989.

No significant hazards consideration comments received: No

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10610.

Duke Power Company, Docket Nos. 50-369 and 50-370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of application for amendments: August 3, 1989, as supplemented November 9, 1989.

Brief description of amendments: The amendments change the Technical Specifications to reduce from 75% to 50% the number of movable incore detector thimbles in McGuire Unit 1 required to be available during the remainder of the present fuel cycle for the Movable Incore Detector System to be declared operable.

Date of issuance: December 14, 1989

Effective date: December 14, 1989

Amendment Nos.: 101, 83

Facility Operating License Nos. NPF-9 and NPF-17: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 21, 1989 (54 FR 34633). The November 9, 1989, supplement did not change the substance of the changes nor the proposed determination of no significant hazards consideration contained in the initial notice. The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated December 14, 1989.

No significant hazards consideration comments received: No.

Local Public Document Room location: Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28223

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: September 25, 1989, as supplemented October 18, 1989

Brief description of amendments: These amendments revise the TSs to account for minor changes in power peaking and control rod worths resulting from the Oconee Unit 3 core reload. In addition, the use of the VIPRE thermal hydraulic code is referenced and all specifications associated with two reactor coolant pump operations are deleted.

Date of issuance: December 15, 1989

Effective date: December 15, 1989

Amendment Nos.: 180, 180, 177

Facility Operating License Nos. DPR-38, DPR-47 and DPR-55. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** November 1, 1989 (54 FR 46146). The Commission's related evaluation of the amendments is

contained in a Safety Evaluation dated December 15, 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

GPU Nuclear Corporation, et al., Docket No. 50-219, Oyster Creek Nuclear Generating Station, Ocean County, New Jersey

Date of application for amendment: October 11, 1989, supplemented October 26, 1989

Brief description of amendment: The amendment replaces the organizational charts in the Technical Specifications with more general organizational requirements. These general requirements capture the essence of those organizational features depicted on the charts necessary for ensuring that the plant can be operated safely.

Date of Issuance: December 21, 1989

Effective date: December 21, 1989

Amendment No.: 134

Provisional Operating License No. DPR-16. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** November 15, 1989 (54 FR 47604). The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated December 21, 1989

No significant hazards consideration comments received: No.

Local Public Document Room location: Ocean County Library, Reference Department, 101 Washington Street, Toms River, New Jersey 08753.

Louisiana Power and Light Company, Docket No. 50-382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: July 1, 1988 as supplemented by letter dated August 15, 1989

Brief description of amendment: The amendment revised Facility Operating License No. NPF-38 for Waterford 3 to authorize Entergy Operations, Inc. (EOI) to act on behalf of Louisiana Power and Light (LP&L), with responsibility for and control over the physical construction, operation, and maintenance of the facility. This action is in conjunction with EOI becoming the operator of Arkansas Nuclear One, Units 1 and 2 and Grand Gulf, Units 1 and 2.

Date of issuance: December 14, 1989

Effective date: December 14, 1989

Amendment No.: 60

Facility Operating License No. NPF-38. Amendment revised the License Conditions.

Date of initial notice in **Federal Register:** August 10, 1988 (53 FR 30136) with the supplement on September 6, 1989 (54 FR 37047) and for Antitrust, November 18, 1988 (53 FR 46725) with a supplement on November 1, 1989 (54 FR 46168). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 14, 1989.

Antitrust comments have been received and are addressed in the Commission's related safety evaluation.

No significant hazards consideration comments received: No.

Local Public Document Room location: University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans, Louisiana 70122.

Niagara Mohawk Power Corporation, Docket No. 50-220,Nine Mile Point Nuclear Station, Unit No. 1, Oswego County, New York

Date of application for amendments: May 1, 1989, as amended June 15, 1989

Brief description of amendments: This amendment revises Technical Specification (Appendix A) Section 3.1.8 and its associated Bases to permit that one Feedwater Pump blocking valve in one HPCI pump train may be closed during reactor startup when core power is equal to or less than 25% of rated thermal power.

Date of issuance: December 14, 1989

Effective date: December 14, 1989

Amendment Nos.: 113

Facility Operating License Nos. DPR-63: Amendments revises the Technical Specifications.

Date of initial notice in **Federal Register:** August 9, 1989 (54 FR 32712). The Commission's related evaluation of these amendments is contained in a Safety Evaluation dated December 14, 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.

Northeast Nuclear Energy Company, Docket No. 50-245, Millstone Nuclear Power Station, Unit No. 1, New London County, Connecticut

Date of application for amendment: October 6, 1989

Brief description of amendment: The change to the Technical Specifications reduces the reporting requirements in Section 3.6.C.1.a for iodine spiking from a short-term report to inclusion in the Annual Report (Section 6.9.1.5) and eliminates the requirement to shutdown the plant if primary coolant activity limits are exceeded for 800 hours in a 12-month period.

Date of issuance: December 21, 1989

Effective date: December 21, 1989

Amendment No.: 42

Facility Operating License No. DPR-21. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** November 1, 1989 (54 FR 4651). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 21, 1989

No significant hazards consideration comments received: No.

Local Public Document Room location: Waterford Public Library, 49 Rope Ferry Road, Waterford, Connecticut 06385.

Philadelphia Electric Company, Docket No. 50-352, Limerick Generating Station, Unit 1, Montgomery County, Pennsylvania

Date of application for amendment: July 11, 1989 and supplemented by letter dated November 3, 1989. The supplemental letter does not change the intent of the original request.

Brief description of amendment: The amendment revised the Technical Specifications (TSs) 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.

Date of issuance: December 19, 1989

Effective date: December 19, 1989

Amendment No. 35

Facility Operating License No. NPF-39. This amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 23, 1989 (54 FR 35106). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 19, 1989.

No significant hazards consideration comments received: No

Local Public Document Room location: Pottstown Public Library, 500 High Street, Pottstown, Pennsylvania 19464.

Power Authority of the State of New York, Docket No. 50-333, James A. FitzPatrick Nuclear Power Plant, Oswego County, New York

Date of application for amendment: May 31, 1989, amended July 18, 1989, amplified November 20, 1989.

Brief description of amendment: The amendment modifies the Residual Heat Removal surveillance criteria to reflect deletion of the Low Pressure Coolant Injection System loop selection logic scheme. It also clarifies the use of the terms "demonstrate" and "verify" throughout the Technical Specifications.

Date of issuance: December 26, 1989

Effective date: December 26, 1989

Amendment No.: 148

Facility Operating License No. DPR-59: Amendment revised the Technical Specification.

Date of initial notice in **Federal Register:** July 26, 1989 (54 FR 31116). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 26, 1989.

No significant hazards consideration comments received: No

Local Public Document Room location: Penfield Library, State University College of Oswego, Oswego, New York.

Public Service Company of Colorado, Docket No. 50-267, Fort St. Vrain Nuclear Generating Station, Platteville, Colorado

Date of amendment request: September 14, 1989 as revised December 4, 1989

Brief description of amendment: Changes to Technical Specification requirements for fuel handling and storage.

Date of issuance: December 14, 1989

Effective date: December 14, 1989

Amendment No.: 75

Facility Operating License No. DPR-34. Amendment revised the Technical Specifications/license.

Date of initial notice in **Federal Register:** October 18, 1989 (54 FR 42861). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 14, 1989.

No significant hazards consideration comments received: No

Local Public Document Room location: Greeley Public Library, City Complex Building, Greeley, Colorado

Public Service Electric & Gas Company, Docket No. 50-354, Hope Creek Generating Station, Salem County, New Jersey

Date of application for amendment: September 25, 1989

Brief description of amendment: The amendment request revised the Technical Specifications by deleting references to conditions permitted during the startup testing program.

Date of issuance: December 18, 1989

Effective date: As of its date of issuance and shall be implemented within 60 days of its date of issuance.

Amendment No. 35

Facility Operating License No. NPF-57. This amendment revised the Technical Specifications and/or License.

Date of initial notice in **Federal Register:** November 1, 1989 (54 FR 46156). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 18, 1989.

No significant hazards consideration comments received: No

Local Public Document Room location: Pennsville Public Library, 190 S. Broadway, Pennsville, New Jersey 08070

Toledo Edison Company and The Cleveland Electric Illuminating Company, Docket No. 50-346, Davis-Besse Nuclear Power Station, Unit No. 1, Ottawa County, Ohio

Date of application for amendment: June 12, 1989, supplemented August 11, 1989

Brief description of amendment: The amendment extended the inspection interval for certain surveillance requirements for the emergency diesel generators in the Davis-Besse Technical Specifications from at least once per 18 months during shutdown to a maximum inspection interval not to exceed 30 months.

Date of issuance: December 22, 1989

Effective date: December 22, 1989

Amendment No. 141

Facility Operating License No. NPF-3. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** September 20, 1989 (54 FR 38766). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 22, 1989.

No significant hazards consideration comments received: No

Local Public Document Room location: University of Toledo Library, Documents Department, 2801 Bancroft Avenue, Toledo, Ohio 43606.

Toledo Edison Company and The Cleveland Electric Illuminating Company, Docket No. 50-346, Davis-Besse Nuclear Power Station, Unit No. 1, Ottawa County, Ohio

Date of application for amendment: October 9, 1989

Brief description of amendment: The amendment changed the title of the Assistant Plant Manager-Operations in Technical Specification (TS) 6.2.2, Facility Staff, to Manager-Plant Operations. The amendment further changed TS 6.2.2 by allowing a previously held Senior Reactor Operator (SRO) license for the Davis-Besse Nuclear Power Station (DBNPS) or for another pressurized water reactor to serve as acceptable qualifications for the Manager-Plant Operations. TS 6.3 was also revised to reflect this change.

Date of issuance: December 27, 1989

Effective date: December 27, 1989

Amendment No. 142

Facility Operating License No. NPF-3. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** November 15, 1989 (54 FR 47610). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 27, 1989.

No significant hazards consideration comments received: No

Local Public Document Room location: University of Toledo Library, Documents Department, 2801 Bancroft Avenue, Toledo, Ohio 43606.

Wisconsin Public Service Corporation, Docket No. 50-305, Kewaunee Nuclear Power Plant, Kewaunee County, Wisconsin

Date of application for amendment: July 14, 1989

Brief description of amendment: The amendment changed the Technical Specifications by revising the surveillance test frequency of the turbine stop valves, control valves, and interceptor valves associated with turbine overspeed protection.

Date of issuance: December 22, 1989

Effective date: December 22, 1989

Amendment No.: 84

Facility Operating License No. NPF-30. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** September 20, 1989 (54 FR 38769). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 22, 1989.

No significant hazards consideration comments received: No.

Local Public Document Room location: University of Wisconsin Library Learning Center, 2420 Nicolet Drive, Green Bay, Wisconsin 54301.

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 February 9, 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).

Arizona Public Service Company, et al., Docket No. STN 50-529, Palo Verde Nuclear Generating Station, Unit 2, Maricopa County, Arizona

Date of application for amendment: October 13, 1989 as revised December 20, 1989.

Brief description of amendment: The amendment authorizes a one-time extension of the 18-month surveillance interval for (1) the Class 1E Diesel Generator and Integrated Safeguards Test, and (2) the Station Battery Surveillance Test beyond the 25 percent allowable interval increase by approximately two additional months, until the second refueling outage for Unit 2.

Date of issuance: December 22, 1989

Efffective date: December 22, 1989

Amendment No.: 30

Facility Operating License No. NPF-51: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** December 13, 1989 (54 FR 51253). The Commission's related evaluation of the amendment, finding of exigent circumstances, consultation with the State of Arizona, and final determination of no significant hazards consideration are contained in a Safety Evaluation dated December 22, 1989.

No significant hazards consideration comments received: No.

Local Public Document Room location: Phoenix Public Library, Business and Science Division, 12 East McDowell Road, Phoenix, Arizona 85004.

Power Authority of the State of New York, Docket No. 50-333, James A. FitzPatrick Nuclear Power Plant, Oswego County, New York

Date of application for amendment: December 11, 1989

Brief description of amendment: The amendment changes the trip level setpoint for the High Pressure Coolant Injection System steam line high flow isolation and related Bases.

Date of issuance: December 15, 1989

Effective date: December 15, 1989

Amendment No.: 147

Facility Operating License No. DPR-59: Amendment revised the Technical Specification.

Public comments requested as to proposed no significant hazards consideration: No. The Commission's related evaluation of the amendment, finding of emergency circumstances, and final determination of no significant hazards consideration are contained in a Safety Evaluation dated December 15, 1989.

Attorney for Licensee: Mr. Charles M. Pratt, 1633 Broadway, New York, New York 10019.

Local Public Document Room location: Penfield Library, State University College of Oswego, Oswego, New York.

NRC Project Director: Robert A. Capra

Dated at Rockville, Maryland, this 3rd day of January, 1990.

For the Nuclear Regulatory Commission.

Steven A. Varga,

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

[FR Doc. 90-462 Filed 1-9-90; 8:45 am]

BILLING CODE 7590-01-D

[Docket No. 50-219]

GPU Nuclear Corp. and Jersey Central Power & Light Co.; Issuance of Amendment to Provisional Operating License

The U.S. Nuclear Regulatory Commission (Commission) has issued Amendment No. 135 to Provisional Operating License No. DPR-16 issued to GPU Nuclear Corporation (the licensee), which revised the Technical Specifications for operation of the Oyster Creek Nuclear Generating Station located in Ocean County, New Jersey. The amendment is effective as of the date of issuance.

The amendment revises the Technical Specifications to delete Technical Specification Safety Limit 2.1.E which required at least two recirculation loops to be fully open except when the reactor vessel head is off and vessel water level is above the main steam nozzle. The amendment also incorporates this limitation in Technical Specification 3.3.F and that limitation is revised to require that at least one recirculation loop, instead of two be fully open during applicable plant conditions. The proposed change would also require that during power operations if at least four recirculation loops cannot be maintained in service, then hot shutdown or refuel conditions must be reached in 12 hours. Presently, the requirement is that the unit be placed in cold shutdown conditions within 24 hours.

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 Committee 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 and Opportunity for Hearing in connection with this action was published in the **Federal Register** on May 3, 1988 (53 FR 15756). No request for a hearing or petition for leave to intervene was filed following this notice.

The Commission has prepared an Environmental Assessment related to the action and has determined not to prepare an environmental impact statement. Based upon the environmental assessment, the Commission has concluded that the issuance of this amendment will not have a significant effect on the quality of the human environment.

For further details with respect to the action see (1) the application for amendment dated March 31, 1988, and supplemented November 15, 1988, and August 23, 1989, (2) Amendment No. 135 to License No. DPR–16, (3) the Commission's related Safety Evaluation, and (4) the Commission's Environmental Assessment. 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 the Ocean County Library, Reference Department, 101 Washington Street, Toms River, New Jersey 08753.

A copy of items (2), (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Reactor Projects—I/II.

Dated at Rockville, Maryland this 30th day of December 1989.

For the Nuclear Regulatory Commission.

Alexander W. Dromerick,

Project Manager, Project Directorate I–4, Division of Reactor Projects - I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 90–604 Filed 1–9–90; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF MANAGEMENT AND BUDGET

Cost of Hospital and Medical Care and Treatment Furnished by the United States; Certain Rates Regarding Recovery From Tortiously Liable Third Persons

By virtue of the authority vested in the President by Section 2(a) of Public Law 87–693 (76 Stat. 593; 42 U.S.C. 2652), and delegated to the Director of the Office of Management and Budget by Executive Order No. 11541 of July 1, 1970 (35 **Federal Register** 10737), the three sets of rates outlined below are hereby established. These rates are for use in connection with the recovery, from tortiously liable third persons, of the cost of hospital and medical care and treatment furnished by the United States (part 43, chapter I, title 28, Code of Federal Regulations) through three separate Federal agencies. The rates have been established in accordance with the requirements of OMB Circular A–25, requiring reimbursement of the full cost of all services provided. The rates are established as follows:

(1) Department of Defense

Historical costs and workload data developed through the Medical Expense and Performance Reporting System (MEPR) provide an operating cost base to which are added systemwide costs and allowances for actual inflation and pay raises to obtain the estimates for the fiscal year under review. Costs were also added for retirement for civilian personnel and for an asset charge in lieu of a specific depreciation cost of fixed assets.

(2) Department of Veterans Affairs

The actual costs and per diem rates by type of care for the previous year are added to the estimated costs for depreciation of buildings and equipment, administrative overhead, interest on capital investment, and Government employee retirement and disability charges. These computed rates are then adjusted by the budgeted percentage change to arrive at the estimated rates for the fiscal year under review.

(3) Department of Health and Human Services

The sum of obligations for each cost center providing medical services is broken down into amounts attributable to inpatient care on the basis of the proportion of staff devoted to each cost center. Total inpatient costs and outpatient costs thus determined are divided by the relevant workload statistic (inpatient day, outpatient visit) to produce the inpatient and outpatient rates. In calculating the rates, the Department's unfunded retirement liability costs and capital and equipment depreciation costs were incorporated to conform to requirements set forth in OMB Circular A–25. In addition, each cost center's obligations include all costs from all accounts, such as Medicare and Medicaid collections and Contract Health funds used to support direct operations. Inclusion of these funds yields a more accurate indication of the cost of care in HHS facilities.

These rates represent the reasonable cost of hospital, nursing home, medical, surgical, or dental care and treatment (including prostheses and medical appliances) furnished or to be furnished by the United States in Federal hospitals, nursing homes, and outpatient clinics administered by the Department of Defense, the Department of Veterans Affairs, or the Department of Health and Human Services.

For such care and treatment furnished at the expense of the United States in a facility not operated by the United States, the rates shall be the amounts expended for such care and treatment.

	Effective October 1 1989 and thereafter		
	DOD	VA	HHS
Hospital care per inpatient day:			
General medical care	554	554	780
Surgical care	.....	789	.....
Psychiatric care	.....	273	.....
Intermediate care	.....	234	.....
Neurology	.....	505	.....
Rehabilitation medicine	.....	412	.....
Blind rehabilitation	.....	568	.....
Alcohol and drug treatment	.....	238	.....
Prescription	.....	17	.....
Nursing home care	.....	168	.....
Spinal cord injury care	.....	613	.....
Burn Center, U.S. Army Institute of Surgical Research, Brooke Army Medical Center, Fort Sam Houston, TX	2,042	.....	.....
Outpatient medical and dental treatment:			
Outpatient visit	67	116	103
Dental outpatient visit	.....	81	.....

For the period beginning October 1, 1989, the rates prescribed herein supersede those established by the Director of the Office of Management and Budget on September 27, 1988 (52 CFR 36351).

Dated: December 21, 1989.

Richard G. Darman,

Director, Office of Management and Budget.

[FR Doc. 90–559 Filed 1–9–90; 8:45 am]

BILLING CODE 3110–01–M

SECURITIES AND EXCHANGE COMMISSION

[34–27580; File No. SR–GSCC–89–13]

Self-Regulatory Organization; Notice of Proposed Rule Change by the Government Securities Clearing Corporation ("GSCC") Relating to Modifications to GSCC's Rules 1 (Definitions) and 4 (Clearing Fund and Loss Allocation)

December 29, 1989.

Pursuant to section 19(b)(1) of the

Securities Exchange Act of 1934, as amended ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on December 1, 1989, GSCC filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below. Items II and III have been prepared by GSCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

GSCC's proposal would amend Rules 1 and 4 of its Rules, in order to add definitions and revise the clearing fund formula. A copy of the proposed rule change is contained in the proposal that is on file with, and available from, the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, GSCC included statements concerning the purpose of, and basis for, the proposed rules changes and discussed any comments it received on the proposed rules changes. The text of these statements may be examined at the places specified in Item IV below. GSCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) The purpose of this rule filing is to revise the clearing fund formula to take into account the lessened exposure to GSCC that results from offsetting net settlement positions of members. The current clearing fund formula has two components. The first component looks to margin exposure that results from a netting member's funds-only settlement obligations; this would remain unchanged. The second component reflects exposure that results from a netting member's net settlement obligations. Currently, a netting member's net settlement positions are margined on a "gross" basis without consideration of offsets. As a result, the required clearing fund contribution of certain netting members may overstate the exposure to GSCC stemming from such members' settlement activity. The proposed revision would allow consideration of offsets within a netting members' net settlement obligations.

It is important to note that a netting members' net settlement positions may never be sufficiently offset so as to result in no margin requirement with regard to such. There would always be a minimum margin required, which minimum would be based on a set percentage of the margin calculated for a member's settlement positions prior to consideration of any offsets. This recognizes the imperfect nature of offsets and the existence of a certain degree of liquidity exposure with regard to even the best of offset positions.

Several factors would be looked to under the revised clearing fund formula in determining the appropriate margin on a netting member's net settlement positions. First, there are the margin percentages to be applied to securities of different remaining maturity. These are, and would continue to be, derived using historical price volatility data.

Also, in order to allow GSCC to give credit for offsetting positions only to an appropriate extent, it will establish "offset classes" for securities of varying remaining maturity and "disallowance percentages" among those different classes of securities. These offset classes and disallowance percentages initially would be established based on analogous criteria in the Treasury Department's liquid capital requirements for registered Government securities brokers and dealers; in the future, when GSCC has in place a sufficient historical price volatility data base, such classes and percentages will be monitored, and may be adjusted, based on review of certain statistical measures (specifically, the co-efficient of correlations and the co-efficient of determination, which measures the strength of the relationship between two variables) of relationships among classes of securities.

Finally, a minimum margin would be established based on a certain percentage of the margin calculated on a member's net settlement positions pre-offsets; GSCC proposes that this percentage initially be set at 50 percent, which it believes reflects a prudent, conservative approach to revising the clearing fund.

(2) As indicated in the above analysis, the proposed rule changes will promote the prompt and accurate clearance and settlement of transactions for which GSCC is responsible and are, therefore, consistent with the requirements of the Act and the rules and regulations thereunder applicable to self-regulatory organizations.

B. Self-Regulatory Organization's Statement on Burden on Competition

GSCC does not believe that the proposed rule will have an impact on, or impose a burden on, competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Comments on the proposed rule changes have not been solicited or received. Members will be notified of the rule filing, and comments will be solicted, by an Important Notice. GSCC will notify the Commission of any written comments received by GSCC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes it reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Instititue proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submissions, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change that are filed with Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filings will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to file number SR–GSCC–

89–13 and should be submitted within January 31, 1990.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 90–511 Filed 1–9–90; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–27583; File No. GSCC–89–12]

Self-Regulatory Organizations; Government Securities Clearing Corporation; Order Granting Temporary Approval of a Proposed Rule Change Making Treasury Bill Securities Eligible for Netting

January 2, 1990.

On November 2, 1989, the Government Securities Clearing Corporation ("GSCC") filed a proposed rule change (File No. SR–GSCC–89–12) under section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder.[2] The proposal would make Treasury Bills ("T–Bills") eligible for netting in GSCC's netting system. The Commission published notice of the proposal in the **Federal Register** on November 27, 1989.[3] No comments were received. GSCC filed an amendment to the proposal on December 19, 1989.[4] For the reasons discussed below, the Commission is approving the proposal on a temporary basis until December 31, 1990.

I. Description

The proposal will authorize GSCC to add T–Bills to the list of securities eligible for processing GSCC netting system. In addition, the proposal will authorize GSCC to process forward-settling trades in T–Bills and revise GSCC's rules to accommodate those trades.

Currently, members may submit T–Bill transactions to GSCC only for comparison purposes. Once comparison is completed, GSCC transmits the comparison data back to the members, who then make arrangements for settlement outside of GSCC. Under the proposal, GSCC will pend compared transactions in the comparison system until the processing cycle before the settlement date for the underlying securities. At that time, the data will go into that evening's netting cycle. The next morning members will receive reports indicating their funds-only and securities settlement obligations, which are met by paying or delivering or receiving funds or securities to or from GSCC.

GSCC will not guarantee forward-settling T–Bill trades until completion of the netting process and, therefore, will not include forward-settling T–Bill trades in GSCC's calculation of member clearing fund deposit requirements while they are pending in the comparison system. GSCC, however, will monitor the pending trades in several ways. First, GSCC will monitor the daily price movement of each T–Bill that is eligible for netting. If the price movement of a particular security breaks certain parameters (set in consultation with the membership and standards committee using historical price volatility data), GSCC, under existing rules,[5] may require members to increase their clearing fund deposits. Second, GSCC will monitor member positions in forward-settling T–Bills on a daily basis. If a particular member's positions reach a level that is of concern to GSCC, GSCC, under existing rules,[6] may request additional clearing fund deposits from the member. Finally, should a member become insolvent while its transactions are pending in the comparison system, GSCC can make that member's T–Bill trades ineligible for the net.

The proposal also changes GSCC's rules to accommodate forward settling T–Bill trades. First, the proposal adds a fifth requirement to make a trade eligible for netting: the trade data must be listed on a report that is available to netting members and the report indicates that the trade is to be settled on the current business day.[7] Second, each of the section sof GSCC Rule 7 is given a caption, to make the rule easier to read and reference. Third, references in section 1 and 3 of GSCC Rule 7 to the term "Cleared Securities" are replaced by references to the term "Eligible Securities" to reflect earlier changes to GSCC Rule 1 (Definitions) that deleted the term "Cleared Security" and added the term "Eligible Security." Finally, sections 1 of GSCC Rule 7 is revised to make clear that the comparison service is provided by GSCC only for data on trades between members of the comparison system.

II. GSCC's Rationale for the Proposal

GSCC states that the proposal will promote the prompt and accurate clearance of securities transactions for which GSCC is responsible and is, therefore, consistent with the requirements of the Act, as amended, and the rules and regulations thereunder applicable to self-regulatory organizations. GSCC states that implementation of the proposal will reduce GSCC members' risks associated with T–Bill trade processing and will increase member trade processing efficiencies. In addition, various other benefits will be realized. First, the prospect of having their forward-settling T–Bill trades netted will provide incentive for members to submit more T–Bill trades for comparison, thus increasing the comparison rate for such securities. Also, the proposal will provide GSCC with experience and data that will be helpful in devising a sound approach to the netting of forward-settling Treasury Notes and Bonds.

III. Discussion

The Commission believes GSCC's proposal is consistent with the Act and, in particular section 17A(b)(3), because the proposal will promote the prompt and accurate clearance and settlement of government securities transactions. As discussed below, the proposal will bring the benefits of centralized comparison and netting to another area of the government securities market. In addition, the Commission believes the proposal is consistent with GSCC's obligation to safeguard securities and funds in its possession and control consistent with section 17A(b)(3)(A).

T-Bills are auctioned by the Department of the Treasury on a weekly basis on Mondays. Settlement (or issuance) of the auctioned T-Bills occurs on the following Thursday. Currently, market participants pend their trades until Wednesday, when each dealer compares its trades with other dealers on a firm-by-firm basis. Settlement generally occurs the following morning on a firm-by-firm basis when the T-Bills are issued.

The proposal will reduce risk for members by encouraging the use of GSCC's centralized comparison and netting system. Centralized comparison of T-Bill transactions will result in a higher comparison rate over those cleared and settled outside GSCC and will give members better information regarding their current unsettled positions. Netting will reduce delivery

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[1] 15 U.S.C. 78s(b) (1982).

[2] 17 CFR 240.19b–4 (1989).

[3] *See* Securities Exchange Act Release No. 27449 (November 17, 1989), 54 FR 48825.

[4] The amendment was not published because it is of a nonsubstantive nature.

[5] *See* GSCC Rule 4.

[6] *See* GSCC Rule 5.

[7] Currently, trade is eligible for entry into the netting system if it meets four requirements: (1) The trade data is compared by GSCC and made available to GSCC members; (2) the trade is made on or before its contractual settlement data; (3) both parties to the trade are netting members; and (4) the security is an eligible security for netting purposes.

and payment obligations for members and member exposure to the risk that the party it trades with will be unable to settle that transaction. In addition, netting will further reduce risk of default or insolvency by members.[8]

In changing its system to accommodate trades that do not settle up for up to three days after the day they are compared, the Commission is concerned that GSCC may be exposed to increased risk if one or more members default on pending obligations. The Commission believes, however, that the increased risk to GSCC is outweighed by the risk posed to the market by decentralized comparison and settlement.[9] The Commission also believes that the precautions GSCC will take to protect itself, such as monitoring the price movement of each T-Bill issue and the position of members, and the ability to increase margin when and where necessary, will allow GSCC to manage that risk satisfactorily.[10]

The Commission believes that accurate price and volatility data is crucial to setting adequate clearing fund contribution requirements for member transactions, including forward-settling T-Bills. GSCC is developing automated systems to measure and monitor market price volatility and expects to implement those systems during the next nine months. Accordingly, the Commission believes it is appropriate to approve the proposal for one year through December 31, 1989 to permit GSCC to gain experience in netting T-Bill and forward-settling T-Bill trades, and to evaluate, at a later date, GSCC safeguards based on that experience.

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the Act and, in particular, with section 17A.

It is therefore ordered, pursuant to section 19(b)(2) of Act, that the proposed rule change (File No. SR–GSCC–89–12) be, and hereby is, approved through December 31, 1990.

[8] For a more detailed discussion of the benefits of centralized comparison and netting of government securities, *see* Securities Exchange Act Release No. 27006 (July 7, 1989), 54 FR 29798 and Securities Exchange Act Release No. 25740 (May 24, 1988), 53 FR 19839.

[9] *Id.*

[10] Perhaps the best safeguard would be for GSCC to mark-to-the-market each member's net pending settlement obligation. In the context of this proposal, however, that safeguard appears to be unduly burdensome for GSCC and its members. As noted above, GSCC does not guarantee forward-settling T-Bill trades until those trades are netted on the issue date. GSCC's other safeguards, at this time, appear to address adequately GSCC's risks in the event of member defaults.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 90–512 Filed 1–9–90; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–27584; File No. SR–NASD–89–36]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Granting Accelerated Approval to Proposed Rule Change, as Amended, Relating to Registration Category, Examination Specifications, and Study Outline for Series 28 Examination; Introducing Broker/Dealer Financial and Operations Principal

The National Association of Securities Dealers, Inc. ("NASD") submitted to the Securities and Exchange Commission ("Commission") on July 28, 1989, and amended on November 7, 1989,[1] a proposed rule change pursuant to section 19(b) of the Securities Exchange Act of 1934 ("Act")[2] and Rule 19B–4 thereunder.[3] The proposal, as amended, changes Schedule C of the NASD By-Laws to add an additional category of registration, Introducing Broker/Dealer Financial and Operations Principal. The proposal also contains the examination specifications and study outline for this registration category. The NASD Board of Governors determined that this registration category would address those subjects which would be relevant to a financial and operations principal at an introducing firm, while still assuring an appropriate level of qualification in introducing firms in the financial and operations area.

Notice of the proposed rule change together with the terms of substance of the propsal was provided by the issuance of a Commission release (Securities Exchange Act Release No. 27144, August 15, 1989) and by publication in the **Federal Register** (54 FR 34843, August 22, 1989). Notice of the Amendment adding language to Schedule C to the NASD By-Laws was provided by the issuance of a Commission release (Securities Exchange Act Release No. 27509, December 6, 1989) and by publication in the **Federal Register** (54 FR 50673, December 8, 1989). No comments were received with respect to the proposed rule change or the amendment.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the NASD and, in particular, the requirements of section 15A[4] and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change, as amended, prior to the 30th day after the date of publication of the amendment. The Commission believes that accelerated approval is appropriate for the following reasons: (i) The examination specifications were published in the **Federal Register** on August 22, 1989, and no objections were raised, (ii) the proposed registration category is similar to the Limited Principal-Financial and Operations (Series 27) which was approved by the Commission many years ago, (iii) the qualification examination (Series 28) for this proposed registration category is substantially similar to the existing examination for Series 27, and (iv) the NASD would like to implement this examination in January 1990, along with several other examinations that have been developed or amended by the NASD recently.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Dated: January 4, 1990.

Jonathan G. Katz,

Secretary.

[FR Doc. 90–513 Filed 1–9–90; 8:45 am]

BILLING CODE 8010–01–M

[1] A second amendment was filed on November 20, 1989 requesting accelerated approval of the proposed rule change. These amendments are available for inspection and copying in the Public Reference Room.

[2] 15 U.S.C. 78s(b)(1) (1982).

[3] 17 CFR 240.19b–4 (1989).

[4] 15 U.S.C. 78*o*–3 (1982).

[5] 17 CFR 200.30–3(a)(12) (1989).

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket Nos. 46700 and 46701]

Order Instituting Proceedings; 1990 U.S.-Japan Gateways Proceeding, U.S.-Japan All-Cargo Service Case

AGENCY: Department of Transportation, Office of the Secretary.

ACTION: Order 90–1–4, order instituting the *1990 U.S.-Japan Gateways Proceeding,* and the *U.S.-Japan All-Cargo Service Case.*

SUMMARY: By Order 90–1–4, the Department is instituting the *1990 U.S.-Japan Gateways Proceedings*, to select three U.S. gateways and up to three carriers for additional combination service in the U.S.-Tokyo market, as well as three U.S. and Japanese gateways and up to three carriers for combination service from the U.S. to points in Japan other than Tokyo or Osaka. The Department will also choose gateway/carrier combinations to serve as backups to each of its primary selections in that proceeding.

The Department is also instituting, by the same order, the *U.S.-Japan All-Cargo Service Case*, Docket 46701, to select one gateway/carrier combination for all-cargo service between the U.S. and Japan. A backup combination will also be selected for this route.

Each service is limited to no more than seven weekly nonstop frequencies, and the three Tokyo combination services, together with the all-cargo service, are limited to an aggregate of 24 weekly roundtrip frequencies. The above order allocates six weekly roundtrips to the all-cargo service and 18, to be further allocated based upon the record of the selection proceeding, among the three combination carriers selected to serve Tokyo. Carriers in the combination route case must file primary proposals reflecting no more than six weekly frequencies. A seven frequency proposal may be filed as a supplement.

These cases will be set for oral evidentiary hearing before Administrative Law Judges, and the primary awards will be for five year terms.

Finally, the Department is soliciting applications for authority to operate combination service between Guam/Saipan and several points in Japan, between Alaska and a point in Japan, other than Tokyo or Osaka, and an additional point in Japan for an incumbent all-cargo carrier. These applications shall be separately docketed; motions to consolidate these separate applications into the proceedings instituted here will not be entertained.

DATES: Applications, motions to consolidate, and petitions for leave to intervene shall be filed by January 18, 1990, and answers shall be filed seven calendar days thereafter. (January 25, 1990)

ADDRESS: The above pleadings should be filed in Docket 46700, for the *1990 U.S.-Japan Gateways Proceeding*, and in Docket 46701 for the *U.S.-Japan All-Cargo Service Case*, where appropriate, or separately docketed if they pertain to other route opportunities described above, and addressed to the Documentary Service Division, U.S. Department of Transportation, 400 Seventh Street, SW, Room 4107, Washington, DC 20590.

Dated: January 4, 1990

Jeffrey N. Shane,

Assistant Secretary for Policy and International Affairs.

[FR Doc. 90–570 Filed 1–9–90; 8:45 am]

BILLING CODE 4910–62–M

Federal Aviation Administration

Noise Exposure Map Notice; Tri-City International Airport, Freeland, MI

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its determination that the noise exposure maps submitted by the Tri-City Airport Commission for Tri-City International Airport under the provisions of title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96–193) and 14 CFR part 150 are in compliance with applicable requirements.

EFFECTIVE DATE: The effective date of the FAA's determination on the noise exposure maps is December 13, 1989.

FOR FURTHER INFORMATION CONTACT: Prescott C. Snyder, Federal Aviation Administration, Great Lakes Region, Airports Division, AGL–611.1, 2300 East Devon Avenue, Des Plaines, Illinois 60018, (312) 694–7538.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA finds that the noise exposure maps submitted for Tri-City International Airport are in compliance with applicable requirements of part 150, effective December 13, 1989.

Under section 103 of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as "the Act"), an airport operator may submit to the FAA noise exposure maps which meet applicable regulations and which depict noncompatible land uses as of the date of submission of such maps, a description of projected aircraft operations, and the ways in which such operations will affect such maps. The Act requires such maps to be developed in consultation with interested and affected parties in the local community, government agencies, and persons using the airport.

An airport operator who has submitted noise exposure maps that are found by FAA to be in compliance with the requirements of Federal Aviation Regulations (FAR) part 150, promulgated pursuant to title I of the Act, may submit a noise compatibility program for FAA approval which sets forth the measures the operator has taken or proposes for the reduction of existing noncompatible uses and for the prevention of the introduction of additional noncompatible uses.

The FAA has completed its review of the noise exposure maps and related description submitted by the Tri-City Airport Commission. The specific maps under consideration are the noise exposure maps: Noise Exposure Map, 1988 (Unabated Conditions) and Noise Exposure Map, 1993 (Unabated Conditions) following page I–7 in the submission. The FAA has determined that these maps for Tri-City International Airport are in compliance with applicable requirements. This determination is effective on December 13, 1989. FAA's determination on an airport operator's noise exposure maps is limited to a finding that the maps were developed in accordance with the procedures contained in Appendix A of FAR part 150. Such determination does not constitute approval of the applicant's data, information or plans, or a commitment to approve a noise compatibility program or to fund the implementation of that program.

If questions arise concerning the precise relationship of specific properties to noise exposure contours depicted on a noise exposure map submitted under section 103 of the Act, it should be noted that the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise contours, or in interpreting the noise exposure maps to resolve questions concerning, for example, which properties should be covered by the provisions of section 107 of the Act. These functions are inseparable from the ultimate land use control and planning responsibilities of local government. These local responsibilities are not changed in any way under part 150 or through FAA's review of noise exposure maps.

Therefore, the responsibility for the detailed overlaying of noise exposure contours onto the map depicting properties on the surface rests exclusively with the airport operator which submitted those maps, or with those public agencies and planning agencies with which consultation is required under section 103 of the Act. The FAA has relied on the certification by the airport operator, under § 150.21 of FAR part 150, that the statutorily

required consultation has been accomplished.

Copies of the noise exposure maps and of the FAA's evaluation of the maps are available for examination at the following locations: Federal Aviation Administration, 800 Independence Avenue, SW., Room 617, Washington, DC 20591;

Federal Aviation Administration, Great Lakes Region, Airports Division Office, 2300 East Devon Avenue, Room 269, Des Plaines, Illinois 60018;

Federal Aviation Administration, Detroit Airports District Office, East Willow Run Airport, 8820 Beck Road, Belleville, Michigan 48111;

Tri-City Airport Commission, Tri-City International Airport, 8500 Garfield Road, P.O. Box P, Freeland, Michigan 48623.

Questions may be directed to the individual named above under the heading **FOR FURTHER INFORMATION CONTACT.**

Issued is Des Plaines, Illinois on December 13, 1989.

W. Robert Billingsley,

Assistant Manager, Airports Division, Great Lakes Region.

[FR Doc. 90-603 Filed 1-9-90; 8:45 am]

BILLING CODE 4910-13-M

Urban Mass Transportation Administration

Environmental Impact Statement for Transit Improvements in the Downtown Area of Chicago, IL

AGENCY: Urban Mass Transportation Administration, DOT.

ACTION: Notice of intent.

SUMMARY: The Urban Mass Transportation Administration (UMTA) and the City of Chicago, Illinois, intend to prepare an Environmental Impact Statement (EIS) for alternative transit improvements in the Central Area (downtown) of the City of Chicago. The EIS is being prepared in conformance with 40 CFR parts 1500–1508, Council of Environmental Quality, Regulations for Implementing the Procedural Requirements of the National Environmental Policy Act of 1969 as amended; and 49 CFR part 622, Urban Mass Transportation Administration, Environmental Impact and Related Procedures. In addition, in conformance with the Urban Mass Transportation Act of 1964 and UMTA policy, the draft EIS will be prepared in conjunction with an Alternatives Analysis, and the final EIS in conjunction with Preliminary Engineering.

FOR FURTHER INFORMATION CONTACT: Donald F. Gismondi, UMTA Region V, 55 East Monroe Street, Room 1415, Chicago, IL 60603, Phone: (312) 353–2865.

SUPPLEMENTARY INFORMATION:

Scoping

The Urban Mass Transportation Administration and the City of Chicago invite the public and affected federal, state, and local government agencies to participate in determining the alternatives to be evaluated in the EIS and identifying any significant issues related to the alternatives. A public scoping meeting will be held in Chicago, Illinois, on January 24, 1990, in Preston Bradley Hall of the Cultural Center, 78 East Washington, Chicago, starting at 6:00 p.m.

At this scoping meeting, staff will describe the proposed alternatives using maps and visual aids and present a plan for citizen involvement and the projected work schedule. Members of the public and interested federal, state, and local agencies are invited to comment on the alternatives to be assessed, impacts to be analyzed, and evaluation criteria to be used to arrive at a decision. Comments may be made either orally at the meeting or in writing before February 15, 1990. Written comments should be sent to: Department of Planning, City Hall, Room 1000, 121 North LaSalle Street, Chicago, IL 60602, Attention: Kay Marrin.

Study Area Description

The Chicago Central Area is bounded on the east by Lake Michigan, on the south by the Stevenson Expressway, on the west by Ashland Avenue, and on the north by Division Street.

The study area is located in Cook County and includes approximately 10 square miles. Study area employment for 1980 was 630,000 jobs; by the year 2010, it is expected that there will be 870,000 jobs. As a result of travel to these jobs and other trips, daily travel to the central area will increase from the current level of 850,000 person-trips to over one million trips by the year 2010. Because of the arrangement of land-uses within the central area and their relationship to the regional transportation facilities, a significant component of the travel demand takes the form of:

1. Distributor Trips: peak-period (in morning and afternoon rush times) between commuter rail stations, Chicago Transportation Authority (CTA) rapid transit stations, or major parking areas and central area places of employment (i.e., the end or the beginning segment of the overall commuting trip); and

2. Circulator Trips: mainly midday, evening, or weekend trips between activities within the central area (e.g., a trip between an office building in Streeterville and a State Street department store).

Within the central area, there are large volumes of internal trips between various activities. Primary internal trip purposes are worker or shopper trips from parking or a transit stop to a final destination, trips from work place to shopping or restaurant, work place to personal business, or business to business, visitor trips to cultural or entertainment centers, visitor trips from hotels-to-convention center or other meeting places, and work trips from downtown residences to place of employment. These trips generate many pedestrian movements. For trips of more than one-quarter mile, buses and taxicabs are usually used. A smaller volume entails the use of the private auto. In the future, the above patterns of transportation usage and intra-central area tripmaking will be impacted by new development. These changes will be:

1. Central area growth will increase the volume of trips for both distributor- and circulator-type trips. Within a 15-year period, the peak-hour volumes being carried now on CTA bus routes within the central area are expected to double. There will be a need for increased transit service.

2. Many of the trips generated by new development within the central area will take place in areas not directly served by Metra or CTA rapid transit stations. These areas include Streeterville, some sections of the River North area, the West Loop, and the South Loop. Because of these emerging patterns, rail transit passengers will increasingly need a central area distributor service to conveniently reach their final destinations. Further, these new trips will, on the average, be longer than the existing distributor trips. Circulator trips from these areas will also be longer. These added trip lengths will result in trips that are not usually accomplished by walking.

3. New development is also impacting auto use and the parking system. New development is displacing existing parking facilities and causing some shortages. New parking facilities have been built in response, but they only serve some sections of the central area. The remaining shortages and redistribution of parking will cause longer walking distances between parking location and final destination. Also, the decrease in supply relative to demand has caused and will continue to cause parking fee increases. These increased costs will drive more people

to cheaper parking at remote central area locations or to the public transportation system. These effects will increase the need for a central area circulator.

Alternatives

Transportation alternatives currently proposed for consideration in the study area are:

1. A No-Build Alternative

Under this alternative, the existing transportation systems, including projects which are already committed, will be examined.

2. Transportation Systems Management (TSM) Concept

This alternative will involve the improved use of buses and bus facilities to achieve the needed downtown service. Improvements to the operating environment (e.g., traffic signals, preferential lanes, traffic controls) will be examined; additional bus service and changes to route configuration will also be studied.

3. Light Rail Transit Concepts

This alternative is the application of light rail transit (LRT) technology: rail vehicles that are powered from overhead catenaries. Possible route locations could be Monroe Street through the Loop, Columbus Drive and Fairbanks in the Streeterville area, Canal and Clinton Streets in the West Loop area, Carroll Avenue along the north bank of the Chicago River, Illinois and Grand Avenues east of Michigan Avenue, and South Michigan Avenue in the South Loop area. Along most of these routes, a lane would be taken from existing roadways and dedicated to the LRT. Short segments of separate right-of-way and rail vehicles operating in mixed traffic with autos are also included.

4. Grade-Separated Concept Using Automated Guideway Technology (AGT)

This alternative would be studied to determine if a grade-separated AGT concept could be used. The concept offers the potential for high-quality service via minimum in-vehicle travel times. However, access could be a difficult problem. The guideways would need to be located at an elevation over the CTA Loop structure, or about five to six stories above grade. The concept will likely entail very high capital costs and potentially difficult urban design impacts. The locations of guideways could be similar to those described for the LRT concept.

5. Grade-Separated Concept Using Existing CTA Rapid Transit

This alternative would be another concept that would achieve the advantages of grade separation, but in this case by using extension and improvements to the existing CTA rapid transit system. Considerations could be given to adding stations to the existing subways or elevated lines, possibly extending the elevated or subway system via short segments to access developing sectors of the central area. This would involve high capital cost. Extensions of elevated structure may have negative urban design impacts.

Comments at the scoping meeting should focus on the appropriateness of these and other alternatives for consideration in the study, not on individual preferences for a particular alternative as most desirable for implementation.

Probable Effects

The Urban Mass Transportation Administration and the City of Chicago propose to evaluate in the EIS all significant social, economic, and environmental impacts of the alternatives under consideration. The impacts analyzed will include disruption of established traffic patterns; noise; residential and business displacements; business and community disruption; parking changes; safety; effects on parks, historic sites, and the aesthetic quality of the area; encounters with hazardous wastes; and impacts on floodplains and navigable waterways. These impacts will be evaluated both for the construction period and for the long-term operation of each alternative.

Measures to mitigate harm will be explored for any adverse impact identified. Construction of any alternative other than the No-Build will require increased capital outlays for several years. The TSM and Build alternatives are expected to increase transit service and patronage, with associated increases in operating and maintenance costs.

The alternatives are expected to have no significant impact on development, landuse, energy use, air quality, water quality, wetlands, and ecologically sensitive areas. During scoping, comments on the probable effects should focus on the completeness of the proposed set of impacts to be evaluated. Other impacts or criteria judged relevant to decision-making should be identified.

Dated: January 4, 1990.

Joel P. Ettinger,

Area Director, UMTA Central Area.

[FR Doc. 90-580 Filed 1-9-90; 8:45 am]

BILLING CODE 4910-57-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Department Circular—Public Debt Series—No. 1-90]

Treasury Notes of January 15, 1997, Series D-1997

Washington, January 4, 1990.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of chapter 31, of title 31, United States Code, invites tenders for approximately $7,500,000,000 of United States securities, designated Treasury Notes of January 15, 1997, Series D-1997 (CUSIP No. 912827 YK 2), hereafter referred to as Notes. The Notes will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the yield of each accepted bid. The interest rate on the Notes and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of the Notes may be issued to Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the Notes may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The Notes will be dated January 16, 1990, and will accrue interest from that date, payable on a semiannual basis on July 15, 1990, and each subsequent 6 months on January 15 and July 15 through the date that the principal becomes payable. They will mature January 15, 1997, and will not be subject to call for redemption prior to maturity. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next business day.

2.2. The Notes are subject to all taxes imposed under the Internal Revenue Code of 1954. The Notes are exempt from all taxation now or hereafter imposed on the obligation or interest thereof by any State, any possession of the United States, or any local taxing authority, except as provided in 31 U.S.C. 3124.

2.3. The Notes will be acceptable to secure deposits of Federal public monies. They will not be acceptable in payment of Federal taxes.

2.4. The Notes will be issued only in book-entry form in denominations of $1,000, $5,000, $10,000, $100,000, and $1,000,000, and in multiples of those

amounts. They will not be issued in registered definitive or in bearer form.

2.5. The Department of the Treasury's general regulations governing United States securities, i.e., Department of the Treasury Circular No. 300, current revision (31 CFR part 306); as to the extent applicable to marketable securities issued in book-entry form, and the regulations governing book-entry Treasury Bonds, Notes, and Bills, as adopted and published as a final rule to govern securities held in the TREASURY DIRECT Book-Entry Securities System in Department of the Treasury Circular, Public Debt Series, No. 2–86 (31 CFR part 357), apply to the Notes offered in this circular.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, DC 20239–1500, prior to 1:00 p.m., Eastern Standard time, Wednesday, January 10, 1990. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, January 9, 1990, and received no later than Tuesday, January 16, 1990.

3.2. The par amount of Notes bid for must be stated on each tender. The minimum bid is $1,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield.

3.3. A single bidder, as defined in Treasury's single bidder guidelines, shall not submit noncompetitive tenders totaling more than $1,000,000. A noncompetitive bidder may not have entered into an agreement, nor make an agreement to purchase or sell or otherwise dispose of any noncompetitive awards of this issue prior to the deadline for receipt of tenders.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and are on the list of reporting dealers published by the Federal Reserve Bank of New York, may submit tenders for accounts of customers if the names of the customers and the amount for each customer are furnished. Others are permitted to submit tenders only for their own account.

3.5. Tenders for their own account will be received without deposit from commercial banks and other banking institutions; primary dealers, as defined above; federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; and Federal Reserve Banks. Tenders from all others must be accompanied by full payment for the amount of Notes applied for, or by a guarantee from a commercial bank or a primary dealer of 5 percent of the par amount applied for.

3.6. Immediately after the deadline for receipt of tenders, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, at a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 98.500. That stated rate of interest will be paid on all of the Notes. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance of their bids. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price at the average yield is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of Notes specified in section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this section is final.

5. Payment and Delivery

5.1. Settlement for the Notes allotted must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on Notes allotted to institutional investors and to others whose tenders are accompanied by a guarantee as provided in section 3.5. must be made or completed on or before Tuesday, January 16, 1990. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Thursday, January 11, 1990. When payment has been submitted with the tender and the purchase price of the Notes allotted is over par, settlement for the premium must be completed timely, as specified above. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the par amount of Notes allotted shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered definitive securities tendered in payment for the Notes allotted and to be held in TREASURY DIRECT are not required to be assigned if the inscription on the registered definitive security is identical to the registration of the note being purchase. In any such case, the tender form used to place the Notes allotted in TREASURY DIRECT must be completed to show all the information required thereon, or the TREASURY DIRECT account number previously obtained.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are

authorized, as directed by the Secretary of the Treasury, to receive tenders, to make allotments, to issue such notices as may be necessary, to receive payment for, and to issue, maintain, service, and make payment on the Notes.

6.2. The Secretary of the Treasury may, at any time, supplement or amend provisions of this circular if such supplements or amendments do not adversely affect existing rights of holders of the Notes. Public announcement of such changes will be promptly provided.

6.3. The Notes issued under this circular shall be obligations of the United States, and, therefore, the faith of the United States Government is pledged to pay, in legal tender, principal and interest on the Notes.

John A. Kilcoyne,

Acting Fiscal Assistant Secretary.

[FR Doc. 90-658 Filed 1-5-90; 5:08 pm]

BILLING CODE 4810-40-M

Sunshine Act Meetings

Federal Register
Vol. 55, No. 7
Wednesday, January 10, 1990

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).

AFRICAN DEVELOPMENT FOUNDATION

Board of Directors Meeting

TIME: 10:00 a.m.–1:00 p.m.

PLACE: African Development Foundation.

DATE: Friday, January 19, 1990.

STATUS: Open.

Agenda

1. Chairman's Report.
2. President's Report.
3. Other Business.

CONTACT PERSON FOR MORE INFORMATION: Ms. Janis McCollim, 673–3916

Leonard H. Robinson, Jr.,
President.

[FR Doc. 90–774 Filed 1–8–90; 2:59 pm]
BILLING CODE 6116–01–M

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Meeting

January 4, 1989.

TIME AND DATE: 10:00 a.m., Thursday, January 11, 1990.

PLACE: Room 600, 1730 K Street NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. *Rochester and Pittsburgh Coal Company,* Docket No. PENN 88–194–R. Issues include whether the administrative law judge erred in holding that the operator violated 30 CFR 90–103(a) by reducing the regular rate of pay received by a miner immediately prior to the exercise of the miner's part 90 option.

Any person intending to attend this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 CFR 2706.150(a)(3) and 2706.160(d).

CONTACT PERSON FOR MORE INFO: Jean Ellen (202) 653–5629/(202) 708–9300 for TDD Relay 1–800–877–8339 (Toll Free).

Jean H. Ellen,
Agenda Clerk.

[FR Doc. 90–764 Filed 1–8–90; 2:24 pm]
BILLING CODE 6735–01–M

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 11:00 a.m., Tuesday, January 16, 1990.

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: January 8, 1990.

Jennifer J. Johnson,
Associate Secretary of the Board.

[FR Doc. 90–781 Filed 1–8–90; 3:04 pm]
BILLING CODE 6210–01–M

Corrections

Federal Register
Vol. 55, No. 7
Wednesday, January 10, 1990

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER90-111-000 et al.]

Tampa Electric Co., et al.

Correction

In Notice document 90-214 beginning on page 465 in the issue of Friday, January 5, 1990, make the following correction:

On page 466, in the second column, under 4. National States Power Company (Minnesota) the docket number should read "[Docket No. ER90-110-000]".

BILLING CODE 1505-01-D

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 274 and 279

[Release Nos. IC-17085; IA-1181; File No. S7-16-88]

RIN 3235-AD37

Forms for Filing by Accountants

Correction

In rule document 89-18182 beginning on page 32048 in the issue of Friday, August 4, 1989, make the following corrections:

§ 274.219 Appendix A [Corrected]

1. On page 32049, in the third column, under the signature "Jonathan G. Katz, *Secretary,* insert **Appendix A,** and correct the form heading to read Form N-17f-1.

In the fourth column of the table, the last entry, "PR" should read "Puerto Rico".

§ 274.220 Appendix B [Corrected]

2. On page 32050, in the first column, the entry **Appendix B** and the four lines preceding it should read as follows:

Appendix B

Form N-17f-2

Certificate of Accounting of Securities and Similar Investments in the Custody of Management Investment Companies

3. On the same page in the same column, in the fourth column of the table the last entry "PR" should read "Puerto Rico".

4. On the same page, in the second column, in the first line "investment" should read "investments".

§ 279.8 Appendix C [Corrected]

5. On the same page, in the second column, in the fourth column of the table, the last entry, "PR" should read "Puerto Rico".

BILLING CODE 1505-01-D

federal register

Wednesday
January 10, 1990

Part II

Department of Defense

48 CFR Parts 205, 208, 209, 214, 215, 225, 246, 252, and Appendix T

Department of Defense Federal Acquisition Regulation Supplement; DFARS Foreign Acquisition; Proposed Rule

DEPARTMENT OF DEFENSE

48 CFR Parts 205, 208, 209, 214, 215, 225, 246, 252, and Appendix T

Department of Defense Federal Acquisition Regulation Supplement; DFARS Foreign Acquisition

AGENCY: Department of Defense (DoD).

ACTION: Proposed rule and request for public comment.

SUMMARY: The Defense Acquisition Regulatory (DAR) Council is considering changes to subparts 225.1, 225.3, 225.4, 225.6, 225.73, 225.74, 225.75, 225.76, part 252, and Appendix T as the first phase of a complete rewrite of part 225. These proposed changes entail simplifying, clarifying, and restructuring existing coverage rather than changes in policy. Redundant DFARS–FAR coverage is deleted and FAR/DFARS references are updated or corrected, as appropriate. Proposed changes in DFARS subparts 205.2, 208.4, 209.1, 214.2, 215.4, and 246.4 related to the part 225 changes are also included.

DATE: Comments concerning the proposed rule must be received by March 12, 1990, to be considered in formulating the final rule. Please cite DAR Case 89–52 in all correspondence related to this issue.

ADDRESS: Interested parties should submit written comments to: Defense Acquisition Regulatory Council, ATTN: Mr. Charles W. Lloyd, Executive Secretary, DAR Council, ODASD(P)DARS, c/o OASD(P&L) (M&RS), Room 3D139, The Pentagon, Washington, DC 20301–3062.

FOR FURTHER INFORMATION CONTACT: Mr. Charles W. Lloyd, Executive Secretary, DAR Council, telephone (202) 697–7266.

SUPPLEMENTARY INFORMATION:

A. Background

Part 225 of the DoD Federal Acquisition Regulation Supplement (DFARS) addresses foreign acquisition. Because contracting personnel have found this part difficult to use, it is being rewritten in an effort to clarify, simplify, and eliminate redundancies with the FAR. This proposed regulation is the first of several phases in the complete rewrite of part 225. It primarily covers the Buy American Act, Trade Agreements Act, Customs and Duties and purchases from qualifying countries.

In addition to reorganizing and restructuring subpart 225.1—Buy American Act—Supplies, the proposed rule extensively revises the evaluation procedures. A single 50% evaluation factor (inclusive of duty) will be applied to all nonqualifying country offers. The distinction currently made between participating, FMS/offset and defense cooperation countries is eliminated. All three groups of countries are referred to as qualifying countries with the appropriate evaluation procedures identified as subparts 225.1 and 225.74.

Purchases Under the Trade Agreements Act, subpart 225.4, is revised to incorporate waivers previously delegated by the U.S. Trade Representative to DoD that had not been previously incorporated in the DFARS. Also, any DoD Appropriation or Authorization Act restriction will constitute a national security exception to the Trade Agreements Act. Mobilization base procurements (FAR 6.302–3(a)(2)(i)) will also be excepted procurements in those few cases where a mobilization base item is subject to the Trade Agreements Act.

Customs and Duties, subpart 225.6, is simplified and unnecessary coverage eliminated. Duty will be waived for all designated country end products, not just for those designated countries that are also qualifying countries.

Subpart 225.75 and part of subpart 225.73 are merged into subpart 225.74. Subpart 225.76 is eliminated. Clauses are revised as appropriate.

It is proposed that Appendix T, International Agreements, be revised to renumber and alphabetize the Table of Contents and include agreements with Greece and Switzerland.

To comply with the above proposed changes, minor related changes are proposed in subparts 205.2, 208.4, 209.1, 214.2, 215.4, and 246.4.

As a result of this phase of the part 225 rewrite, there are no revisions reflected for subparts 225.2, 225.5, 225.7 through 225.9, 225.70 through 225.72, 225.77, or 225.79.

B. Regulatory Flexibility Act

This proposed rule is not expected to have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The only proposed change that impacts small businesses is the evaluation procedure at 225.105. The revised procedure calls for application of a single 50% factor (generally inclusive of duty) to nonqualifying country offers instead of the existing multi-step procedure. Currently, nonqualifying country offers are evaluated by adding 6% or 12% (inclusive of duty) and 50% (exclusive of duty). Since the 50% (exclusive of duty) factor almost always results in a higher evaluated price than the 6% or 12% (inclusive of duty) factors, application of a single 50% (inclusive of duty) factor will result in a greater preference for small business offers over nonqualifying country offers. An Initial Regulatory Flexibility Analysis has therefore not been performed. Comments are invited from small business and other interested parties. Comments from small entities concerning the affected DFARS Subparts will also be considered in accordance with section 610 of the Act. Such comments must be submitted separately and cite DAR Case 89–610.

C. Paperwork Reduction Act

This proposed rule does not contain information collection requirements which require the approval of OMB under 44 U.S.C. 3501 et seq. The resources necessary to comply with a collection of information would be incurred by persons in the normal course of their business activities.

Two clauses have been revised and one clause added that involve information collection. DFARS 252.225–7000, Buy American Act-Balance of Payments Program Certificate and 252.225–7005, Buy American Act-Trade Agreements Act-Balance of Payments Certificate now require offerors to identify all qualifying and nonqualifying country end products offered under a solicitation. Previously only excluded end products were identified. In order for the Buy American Act, Trade Agreements Act, and Balance of Payments Program to be properly implemented the Contracting Officer must know the country of origin of foreign end products. The information required is routine and should not impose any additional burden of offerors. These clauses have also been modified to eliminate separate certifications with regard to participating country, FMS/offset arrangement country and defense cooperation country end products in favor of a single certification regarding qualifying country end products.

A new clause entitled Information for Duty-Free Entry Evaluation provides the Contracting Officer the information needed to evaluate and award offers with and without duty. Offerors should already have this information available when they price their offer so the resources necessary to comply would be incurred in the normal course of business for companies offering foreign products.

List of Subjects in 48 CFR Parts 205, 208, 209, 214, 215, 225, 246, 252 and Appendix T

Government procurement.

Alyce L. Sullivan,

Acting, Deputy Director, Defense Acquisition Regulatory Council.

Therefore, it is proposed that 48 CFR parts 205, 208, 209, 214, 215, 225, 246, 252, and Appendix T be amended as follows:

1. The authority citation for 48 CFR parts 205, 208, 209, 214, 215, 225, 246, 252, and Appendix T continues to read as follows:

Authority: 5 U.S.C. 301, 10 U.S.C. 2202, DoD Directive 5000.35, and DoD FAR Supplement 201.301.

PART 205—PUBLICIZING CONTRACT ACTIONS

205.203 [Amended]

2. Section 205.203 is amended by substituting in paragraph (b) (S–70) the word "qualifying" in lieu of the word "participating".

PART 208—REQUIRED SOURCES OF SUPPLIES AND SERVICES

208.405–1 [Amended]

3. Section 208.405–1, is amended by adding paragraph (c) "(See 225.107)" at the end of the sentence.

PART 209—CONTRACTOR QUALIFICATIONS

4. Section 209.103 is amended by revising paragraphs (S–70) introductory text and (S–70)(1) to read as follows:

209.103 Policy.

(S–70) *Acquisition from Foreign Concerns.* (1) Awards to foreign concerns are subject to this subpart.

* * * * *

PART 214—SEALED BIDDING

214.202 [Amended]

5. Section 214.202 is amended by adding the following paragraph:

See 225.7403 for procedures for purchasing from qualifying countries.

6. Section 214.202–1 is revised to read as follows:

214.202–1 Bidding time.

(a) *Policy.* When requested by a source located in a qualifying country or a designated country as defined in part 225, the contracting officer shall provide for a 45-day bidding period if this is consistent with the Government's requirements.

214.207 [Amended]

7. Section 214.207 is amended by placing a period after the reference "225.7403(a)" and removing the remainder of the phrase within the parentheses at the end of the section.

PART 215—CONTRACTING BY NEGOTIATION

8. A new section 215.401 is added to read as follows:

215.401 Applicability.

See 225.7403 for additional guidance on procedures for purchasing from qualifying countries.

PART 225—FOREIGN ACQUISITION

9. Section 225.000 is revised to read as follows:

225.000 Scope of part.

This part supplements FAR part 25 and provides special guidance applicable to the Department of Defense for purchasing foreign defense supplies, services, and construction materials. This part also provides guidance for Military Assistance Program acquisitions, Foreign Military Sales, and Research and Development cooperative Programs.

225.101 [Redesignated as 225.000–70]

10. Section 225.101 is redesignated as 225.000–70 and the redesignated section is revised to read as follows:

225.000–70 Definitions.

As used through this part, the words and terms defined in this paragraph shall have the meanings set forth below, unless a different definition is prescribed for a specific subpart.

Defense Equipment means any equipment, item of supply, component, or end product purchased by the Department of Defense.

Domestic concern means an incorporated concern incorporated in the United States or an unincorporated concern having its principal place of business in the United States. (In the context of this part, "concern" refers to a prospective or actual contractor. Thus, a contract with a foreign subsidiary or foreign branch or business office of a U.S. corporation would not be a contract with a domestic concern. Conversely, a contract executed by a foreign salesman or agent on behalf of a domestic concern would nevertheless be a contract with a domestic concern since the basic contractual and legal responsibility resides with the domestic concern.)

Domestic end product, instead of the definition at FAR 25.101, means (a) an unmanufactured end product which has been mined or produced in the United States; or (b) an end product manufactured in the United States if the cost of its qualifying country components and its components which are mined, produced, or manufactured in the United States exceeds 50% of the cost of all its components. The cost of components shall include transportation costs to the place of incorporation into the end product and U.S. duty (whether or not a duty-free entry certificate may be issued). A component shall be considered to have been mined, produced, or manufactured in the United States (regardless of its source in fact) if the end product in which it is incorporated is manufactured in the United States and the component is of a class or kind (1) determined by the Government to be not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality; or (2) as to which the Secretary concerned has determined that it would be inconsistent with the public interest to apply the restrictions of the Buy American Act (FAR 25.102(a)(3)).

Foreign concern means a concern that is not a domestic concern.

A *nonqualifying country* means any country other than the United States that is not listed at DFARS 225.7403.

A *nonqualifying country component* means an item mined, produced, or manufactured in a nonqualifying country.

A *nonqualifying country end product* means (a) an unmanufactured end product mined or produced in a nonqualifying country or (b) an end product manufactured in a nonqualifying country if the cost of the components mined, produced or manufactured in the nonqualifying country exceeds 50% of the cost of all its components. The cost of components shall include transportation to the place of incorporation into the end product and any duty, whether or not the duty is in fact paid.

Nonqualifying country offer means an offer of a nonqualifying country end product, including transportation to destination.

Qualifying country means any country set forth at DFARS 225.7403.

Qualifying country component means an item mined, produced, or manufactured in a qualifying country.

Qualifying country end product means (a) an unmanufactured end product mined or produced in a qualifying country; or (b) an end product manufactured in a qualifying country if the cost of its qualifying country components and its components mined, produced or manufactured in the United States exceeds 50% of the cost of all of its components. The cost of components

shall include transportation to the place of incorporation into the end product and any duty, whether or not duty is in fact paid.

Qualifying country offer means an offer of a qualifying country end product, including transportation to destination.

Source (when restricted by such words as foreign, domestic, qualifying country, etc.) refers to the actual manufacturer or producer of the end product or component (product may encompass a report).

11. A new section 225.000–71 is added to read as follows:

225.000–71 Policy.

(a) When issuing a solicitation for defense supplies, services, and construction materials where foreign participation is expected, and in evaluating offers where there is foreign participation, contracting officers must assure that the solicitation and evaluation procedures comply with applicable statutes, regulations, and policies (for example, the Defense Appropriations Act, Trade Agreements Act, International Agreements and Memoranda, Buy American Act and supporting a favorable international balance of payments).

(b) The following matrix provides a guide for the analysis to be performed on each offer of a foreign end product in response to a solicitation for supplies.

Step	If yes	If no
1. Is the acquisition of the product restricted by the Defense Appropriations Act? (See DFARS subpart 225.70)	The restrictions of the Act must be followed.	Go to Step 2.
2. Is the product being offered a qualifying country end product?	Evaluate the offer as set forth in DFARS subpart 225.74 (but see Step 4)	Go to Step 3.
3. Is the product being purchased covered by the Trade Agreements Act? (See DFARS subpart 225.4)	Determine whether the product being offered is an eligible product. If it is, then evaluate offer IAW FAR 25.402. If it is not, then purchase of the item may be prohibited (See DFARS 225.402).	Go to Step 4.
4. Will the contract (if for more than $100,000) be awarded to a firm controlled by a terrorist nation?	Follow the guidance in DFARS 209.170.	Go to Step 5.
5. Apply the Buy American Act as set forth in DFARS subpart 225.1.		

12. Section 225.102 is revised to read as follows:

225.102 Policy.

(a) There are two tests that must be met to determine whether a manufactured item is a domestic end product. The end product: (1) Must have been manufactured in the United States; and (2) the cost of its U.S. and/or qualifying country components must exceed 50% of the cost of all of its components (this test is applied to the prime contract only, and not to individual subcontracts). The evaluation factor for the Buy American Act is specified in 225.105.

(2) *Unreasonable cost.* The Secretary of Defense has determined that the cost of a domestic end product is unreasonable if it is not the low evaluated offer when evaluated in accordance with 225.105.

(3) *Inconsistency with the public interest.* (i) Specific public interest exceptions for the Department of Defense are discussed at 225.103 and 225.105.

(ii) Although the evaluation procedures in 225.105 reduce overseas dollar expenditures resulting from defense acquisition at an acceptable increase in budget costs, this is an average and overall result rather than one precisely obtained in each case. This is so because, both under the Buy American Act and as a matter of administrative practicability, items are classified either as "foreign" or "domestic" and varying degrees within each class are not recognized. However, the contracting officer should consider recommending a public interest exception where the low domestic offer will involve substantial foreign expenditures and/or the low foreign offer will involve substantial domestic expenditures. A determination to grant a public interest exception on this basis shall be made by:

(A) The Head of the Contracting Activity for purchases under $100,000.

(B) The Agency Head for purchases over $100,000.

(4) *Nonavailability in the United States.* In addition to the policy in FAR 25.102(a)(4) the Buy American Act does not apply to Department of Defense purchases involving components of end products manufactured in the United States or a qualifying country if the component is of a class or kind determined by the Government to be not mined, produced, or manufactured in the United States in sufficient and reasonably available commerical quantitites and of a satisfactory quality. Certain items have been determined to be exempt under these exceptions in accordance with DFARS 225.108.

(5) *Commissary resale.* Nonsubsistence items of foreign origin purchased for resale in domestic commissaries must meet the evaluation criteria in this subpart.

(S–70) A nonavailability determination is not required for end products or components listed in paragraph (S–71) of this section, in FAR 25.108(d)(1) or in 225.108(d)(1) of this supplement. Otherwise, acquisitions of foreign end products or components on the basis of nonavailability shall be made only after a determination of nonavailability has been made and the acquisition is approved:

(1) At a level above the contracting officer, if the amount involved is estimated not to exceed $25,000;

(2) By the chief of the contracting office concerned, if the acquisition is estimated not to exceed $250,000;

(3) By the head of the contracting activity (HCA) or his immediate deputy, or in the case of the Defense Advanced Research Projects Agency (DARPA), the Director, DARPA, if the acquisition is estimated not to exceed $2 million; or

(4) By the Secretary of the Department concerned, or his designee at a level no lower than an HCA, if the acquisition is estimated to exceed $2 million. In making such determination, and granting such approval, the feasibility of foregoing the requirement or providing a U.S. substitute shall be considered.

(S–71) Acquisitions in the following categories may be made without determinations or approvals otherwise required by this subsection.

(1) Spare and replacement parts, if the acquisition must be restricted to the original manufacturer or his supplier.

(2) Foreign drugs by the Defense Personnel Support Center when the Chief of the Division of Technical Operations, Directorate of Medical Material, has determined that only the requested foreign drug will fulfill the requirements.

(S–72) *Preference for U.S. products.* It is DOD acquisition policy to implement the Buy American Act in a manner that will encourage a favorable international

balance of payments. Therefore, the evaluation factor established in DFARS 225.105 shall be applied to offers of foreign end products from non-qualifying countries as prescribed in 225.7403 except for those purchases subject to the Trade Agreements Act (See FAR subpart 25.4).

13. Section 225.103 is revised to read as follows:

225.103 Agreements with certain foreign governments. (See subpart 225.74).

(a) Based on the agreements set forth in Appendix T, the Secretary of Defense has determined that application of the Buy American Act to the end products of the following countries would be inconsistent with the public interest:

Belgium
Canada
Denmark
Egypt
Federal Republic of Germany
France
Greece
Israel
Italy
Luxembourg
Netherlands
Norway
Portugal
Spain
Turkey
United Kingdom of Great Britain and Northern Ireland

(b) Additionally, based on the agreements set forth in Appendix T, application of the Buy American Act may be exempted on a purchase-by-purchase basis as being inconsistent with the public interest pursuant to DFARS 225.7403 for the end products of the countries listed below. This determination is delegated at the levels set forth under DFARS 225.102(S–70).

Australia
Sweden
Switzerland

14. Section 225.105 is revised to read as follows:

225.105 Evaluating offers.

In lieu of the procedures set forth in FAR 25.105, the following procedures are applicable to the Department of Defense:

(a) When evaluating offers of domestic end products against offers of qualifying or nonqualifying country end products: offers of qualifying country end products are evaluated without duty and without adding a 50% evaluation factor; offers of nonqualifying country end products generally are evaluated with duty and with the 50% evaluation factor.

(b) When there is no effective offer of a domestic product (either no responsive offer received, or when the evaluation in paragraph (a) of this section would not result in the acquisition of a domestic end product), offers of nonqualifying country products are evaluated without adding the 50% factor.

(c) Where duty-free entry is to be granted (generally on contracts over $100,000, in accordance with 225.605), evaluate the nonqualifying country offer without duty; when duty-free entry is not to be granted, include the amount of duty in the evaluation of the nonqualifying country product offer.

(S–70) Purchases made pursuant to FAR 6.302–3(a)(2)(i) or in accordance with DFARS part 208, will be restricted to domestic sources for those items. In those instances when it has been determined prior to solicitation that the item is to be restricted to domestic sources, offerors shall be so notified in the solicitation. Note that in most cases, Canada is considered part of the domestic mobilization base. Consequently, Canadian offers would not be subject to the restriction applicable to foreign sources.

(S–71) In accordance with the Buy American Act, the Secretary of Defense has determined that where the procedures in paragraph (S–72) of this section result in the acquisition of foreign end products, the acquisition of domestic end products would be (1) unreasonable in cost or (2) inconsistent with the public interest.

(S–72) Except as provided in this paragraph, offers shall be evaluated so as to give preference to domestic offers as follows:

(1) Each nonqualifying country bid/offer of defense equipment shall be adjusted for purposes of evaluation by adding an evaluation factor of 50% of the offered price (inclusive of duty) (see example 1 of this section). Nonqualifying country offers will include duty in the offered price. If award is made on the nonqualifying country offer and duty is to be exempted through the inclusion of the clause at FAR 52.225–10, the award price shall be the offered price minus the amount of duty identified by the offeror in clause 252.225–7029. If the foregoing procedure results in a tie between a nonqualifying country offer, as evaluated, and a domestic offer, award shall be made on the latter. In other instances, use the tie-breaking procedures in FAR 14.407–6. When more than one line item is offered in response to a solicitation, the factor shall be applied on an item-by-item basis, except that the factor may be applied to any group of items as to which the solicitation specifically provides that award may be made on a particular group of items.

(2) Qualifying country offers shall be evaluated without applying the 50% evaluation factor. In the event that a domestic offer, a qualifying country offer, and a nonqualifying country offer compete for defense equipment, the evaluation factor shall be added to the nonqualifying country offer only. If, however, the application of the factor would not result in award on a domestic offer (e.g. the domestic offer is higher than a qualifying country offer), all offers shall be evaluated without the factor (see example 2 of this section). In the event that no domestic offers are received and a qualifying country offer competes against a nonqualifying country offer, both offers shall be evaluated without applying the evaluation factor (see example 3 of this section). Where no domestic offer is received and award is to made on a nonqualifying country offer, a nonavailability determination must be processed in accordance with 225.102(S–70).

(3) Where the nonqualifying country offer is evaluated without the evaluation factor and duty is to be exempted through the inclusion of the clauses at FAR 52.255–10, the nonqualifying country offer shall be evaluated exclusive of duty by reducing the offered price by the amount of duty identified by the offeror in clause 252.225–7029. If award is made on the nonqualifying country offer, the award price shall be the price as reduced by duty and used for evaluation. Where the clause at FAR 52.225–10 is not included and duty is to be paid by the Government, the nonqualifying country offer shall be evaluated (and, if low, awarded) as submitted, i.e. inclusive of duty.

(4) Offers of eligible products under acquisitions subject to the Trade Agreements Act shall be treated as if they were qualifying country offers under the evaluation procedures above.

Example 1

(a) Duty Not Exempted for Nonqualifying Country Offers:

Nonqualifying Country Offer (including $100 duty)	$6,000
Domestic Offer	8,900
Qualifying Country Offer	9,100

Award on Domestic Offer. The 50% evaluation factor is added to the nonqualifying country offer, inclusive of duty, yielding an evaluated price of $9,000.

(b) Duty Exempted:

Nonqualifying Country Offer (including $1,000 duty)	$600,000

Domestic Offer	910,000
Qualifying Country Offer	920,000

Award on Nonqualifying Country Offer. The addition of the evaluation factor would not result in the award of a domestic offer and all offers are evaluated without the factor. Since duty is being exempted for nonqualifying country offers, the duty is subtracted from the offered price which is evaluated and awarded at $599,000.

Example 2

(a) Duty Not Exempted for Nonqualifying Country Offers:

Nonqualifying Country Offer (inclosure of $100 duty)	$6,000
Domestic Offer	8,500
Qualifying Country Offer	7,800

Award on Nonqualifying Country Offer. In this case, the application of the evaluation factor to the nonqualifying country offer results in a price ($9,000) that is higher than the other two offers, but would not result in the award of a domestic offer, since the qualifying country offer is low. Therefore, all offers are evaluated without the factor. Since duty is not being exempted for nonqualifying country offers, the offer is evaluated and award is made at the price inclusive of duty ($6,000).

(b) Duty Exempted:

Nonqualifying Country Offer (including $1,000 duty)	$880,500
Domestic Offer	950,000
Qualifying Country Offer	880,000

Award on Nonqualifying Country Offer. Again, the addition of the evaluation factor would not result in the award of a domestic offer and all offers are evaluated without the factor. Since duty is being exempted for nonqualifying country offers, the duty identified by the offeror is subtracted from the offered price, which is evaluated and awarded at $879,500.

Example 3

(a) Duty Not Exempted for Nonqualifying Country Offers:

Nonqualifying Country Offer (including $1,000 duty)	$10,000
Qualifying Country Offer	9,500

Award on Qualifying Country Offer. Since no domestic offers are received, the foreign offers are evaluated without the evaluation factor. Since duty is not being exempted and would be paid by the Government, the nonqualifying country offer is evaluated inclusive of duty.

(b) Duty Exempted:

Nonqualifying Country Offer (including $1,000 duty)	$880,500
Qualifying Country Offer	880,000

Award on Nonqualifying Country Offer. Since duty is being exempted, duty is subtracted from the nonqualifying country offer, which is evaluated and awarded at $879,500.

(S–74) If, when evaluated in accordance with the above procedures an offer of a qualifying country end product is determined to be the lowest, responsive, responsible offer, the cognizant contracting officer shall normally proceed to make award on that offer. However, there is no restriction on the authority or responsibility of the cognizant Secretary to restrict acquisitions to domestic sources or reject an otherwise acceptable offer from a qualifying country source in those instances where such restriction or rejection is considered necessary for reasons of the national defense.

15. Section 225.107 is amended by revising the introductory text; by revising paragraph (S–70); by removing paragraph (S–71); by redesignating the existing paragraph (S–72) as paragraph (S–71); by removing in the redesignated paragraph (S–71) the words "Buy American Act and Balance of Payments"; and by adding in the redesignated paragraph (S–71) between the word "procedures" and the word "is" the words "required by 225.105"; to read as follows:

225.107 Acquisition from or through other Government agencies.

The evaluation procedures of 225.105 above are not applicable to transactions described in FAR 25.107 (a), (b) and (c).

(S–70) Defense activities must comply with the evaluation procedures required by 225.105 above when using Federal Supply Schedules.

* * * * *

16. Section 225.109 is amended by adding in paragraph (a) (S–70) between the word "American" and the hyphen the word "Act" and by revising paragraphs (d) (S–71) and (d) (S–72) to read as follows:

225.109 Solicitation provisions and contract clauses.

* * * * *

(d) (S–71) The contracting officer shall insert the clause at 252.225–7002, Qualifying Country Sources as Subcontractors, whenever the clause at 252.225–7001 or the clause 252.225–7006 is used in the solicitation or contract.

(S–72) The clause at 252.225–7029 shall be used in all solicitations where the clause at 252.225–7001 is used.

* * * * *

225.302 [Amended]

17. Section 225.302 is amended by removing the text in paragraph (viii) of paragraph (a)(S–72)(1) and marking the paragraph "Reserved."

225.304 [Removed]

18. Section 225.304 is removed.

225.401 [Amended]

19. Section 225.401 is amended by adding between the word "product" and the word "means" a comma and the words "instead of the definition at FAR 25.401,".

20. Section 225.402 is revised to read as follows:

225.402 Policy.

(a)(1) For the application of duty for bid evaluation purposes see 225.105 and subpart 225.6.

(S–70) *Estimated Acquisition Value For Multiple Line Item Solicitations.* In estimating the value of an acquisition for the purpose of determining whether the acquisition meets the dollar threshold of the Trade Agreements Act, solicitations containing multiple line items shall be treated in the following manner:

(1) Estimates for line items of eligible products which represent the same item and differ only as to delivery period or location shall be totaled.

(2) Estimates for line items of eligible products which represent essentially different items being combined under a single solicitation shall be considered individually.

(c) There shall be no purchase of a foreign end product listed in 225.403(S–70) with an estimated value at or above the dollar threshold determined by the U.S. Trade Representative (see FAR 25.402(a)(1)) which is not an eligible product except as provided below:

(1) National interest waivers under section 302(b)(2) of the Act must be approved on a case-by-case basis. Except as delegated below, a waiver request with supporting rationale shall be submitted in accordance with Departmental procedures to DASD(P).

(i) *Nonavailability.* Authority for national interest waivers on the basis of nonavailability is delegated to the chief of the contracting office concerned where the solicitation is synopsized in accordance with FAR 5.203 and the acquisition is made under full and open competition, and: (A) No offers of domestic or eligible products are received, or (B) offers of eligible products or domestic end products from responsive, responsible offerors are insufficient to fill the Government's requirements. In such cases, all responsive, responsible offers of domestic and eligible products must be accepted prior to acceptance of any

other offers. Determinations must be made on a case-by-case basis and shall be in the form of a written D&F.

(ii) *Purchase by Overseas Purchasing Activities of Products Critical for Support of U.S. Forces Stationed Abroad.* Authority for national interest waivers for purchases by overseas purchasing activities of products critical for support of U.S. forces stationed abroad is delegated to the Head of the Contracting Activity. Such determinations must be made on a case-by-case basis, shall be in the form of a written D&F and shall be supported by a written statement from the Commander of the requiring activity that the requirement is critical for the support of U.S. forces stationed abroad.

(iii) *Purchases of Fuel for Use by U.S. Forces Overseas.* Authority for national interest waivers for purchases of fuel for use by U.S. forces overseas is delegated to the Commander, Defense Fuel Supply Center.

(2) End products from qualifying countries listed at 225.7403.

(e) Where competition from foreign sources is restricted under the authority of FAR 6.302–7, a copy of the justification for restricting competition must also be provided in accordance with FAR 25.402(e) and FAR 6.303–1(d).

21. Section 225.403 is amended by revising paragraph (d); and by revising paragph (S–70) introductory text to read as follows:

225.403 Exceptions.

* * * * *

(d)(1) In the event a Department considers an individual acquisition of such a listed product listed at 225.403 (S–70) to be a purchase "indispensable for national security or national defense purposes," and is, therefore, appropriate for exclusion from the provisions of this subpart, a request with supporting rationale shall be submitted in accordance with Departmental procedures for approval by DASD (P) or designee. The following are national security/national defense exceptions which do not require approval by DASD(P) or designee:

(i) Where purchase from foreign sources has been restricted by the Department of Defense Annual Appropriations or Authorization Acts (see subpart 225.70) or by the establishment of required sources of supplies and services under FAR part 8.

(ii) Where competition from foreign sources is restricted using the authority of FAR 6.302–3(a)(2)(i). A copy of the justification for restricting competition must be provided to DASD (P) in accordance with FAR 25.402(e) and FAR 6.303–1(d).

(S–70) *List of Products.* The following list is arranged according to Federal Supply Classifications (FSC). If an item is not within an FSC listed below, the Trade Agreements Act does not apply. As noted in FAR 25.401, Caribbean Basin country end products are limited to those which are eligible for duty-free treatment under 19 U.S.C. 2703(b). The list of products below has been annotated to indicate those products which are eligible for designated countries, but are not presently eligible for Caribbean Basin countries due to this limitation.

Note: Most of the excluded product categories for Caribbean Basin countries mentioned in FAR 25.401 are not mentioned below, such as textiles, apparel articles, flat goods, footwear, handbags, work gloves, leather wearing apparel, and tuna, because these products do not fall into any of the product categories due to other restrictions on foreign purchases.

* * * * *

225.405 [Amended]

22. Section 225.405 is amended by substituting at the beginning of paragraph (d) the words "The requirements of FAR 25.405(d) do" in lieu of the words "This requirement does".

23. Section 225.407 is revised to read as follows:

225.407 Solicitation provision and contract clause.

(a)(1) The provision, Buy American Act-Trade Agreements Act-Balance of Payments Program Certificate at 252.225–7005, shall be used in all solicitations in which the Buy American Act, Trade Agreements Act, and the Balance of Payments Program clause at 252.225–7006 is used, unless the solicitaiton is solely for machine tools (see 225.7008(e)).

(2) The clause at 252.225–7006, Buy American Act, Trade Agreements Act, and the Balance of Payments Program, shall be used in lieu of the clause at FAR 52.225–9 and shall be inserted along with the clause at 252.225–7002, Qualifying Country Sources as Subcontractors, in all solicitations and contracts subject to the Trade Agreements Act, unless the solicitation is solely for machine tools (see 225.7008(e)). The clause at 252.225–7001 shall not be used where the clause at 252.225–7006 is used.

(S–70) *Identification Of Covered Items Under Multiple Line Item Solicitation.* The clause prescriptions at DFARS 225.407(a) (1) and (2) shall apply where any item under a multiple item solicitation is determined to be subject to the Act. The application of the procedures in 225.402(a)(S–70) and/or the acquisition of noneligible and eligible products under the same solicitation may result in the application of the Trade Agreements Act to only some of the items being solicited. In such a circumstance, the contracting officer will indicate, in the schedule, those items covered by the Act and provide reference to DFARS clauses 252.225–7005 and 252–225–7006.

(S–71) The clause at 252.225–7029 shall be inserted in all solicitations whenever the clause at 252.225–7006 is used.

24. Subpart 225.6 is revised to read as follows:

Subpart 226.6—Customs and Duties

225.600 Scope of subpart.
225.602 Policy.
225.603 Procedures.
225.604 Exempted supplies.
225.605 Contract clause.

Subpart 226.6—Customs and Duties

225.600 Scope of subpart.

This subpart sets forth policies and procedures for exempting from import duty supplies that are imported into the United States in connection with Defense contracts and for the treatment of duty in the evaluation of offers of foreign supplies. Further guidance on the treatment of duty in the evaluation of foreign supplies to the Buy American Act is in subpart 225.1.

225.602 Policy.

(a) Defense supplies may be imported duty-free pursuant to section XXII, chapter 98, subchapter VIII, item 9808.00.30 of the Harmonized Tariff Schedule of the United States; and certain supplies (not including equipment) for vessels or aircraft operated by the United States may be imported duty-free pursuant to 19 U.S.C. 1309. It is DoD policy that duty-free entry certificates will be issued for qualifying country supplies, including end products and components, on all defense contracts, and for eligible products on defense contracts subject to the Trade Agreements Act. (The policy for duty-free entry for eligible products applies only to end products, not to components.)

(b) For defense contracts involving importation of other foreign supplies, duty-free entry certificates will be issued wherever there is reasonable assurance that the administrative and other costs of processing and controlling the certificates will not exceed the amount of duty that would be paid.

(c) Duty shall not be included in the contract price for supplies which are to be accorded duty-free entry and, except as required under the evaluation procedures for the Buy American Act (see 225.105), duty for such items shall not be evaluated in the offered price. The evaluation of duty under subpart 225.1 does not preclude duty-free entry if it is consistent with the policies set forth above. Wherever duty is to be paid by the Government, the duty shall be included in the contract price and evaluated as part of the offer.

(d) The use of duty-free entry certificates for nonqualifying country items should not result in unanticipated profits to contractors. As a rule, a contractor which has been awarded a fixed-price contract based on providing a domestic or qualifying country end product, component or supplies cannot subsequently furnish a nonqualifying country end product, component or supplies without an appropriate reduction in contract price.

225.603 Procedures.

(a) *General.* (1) To assure that the policy of 225.602 is carried out, the clause at FAR 52.225–10 and 252.225–7014 of this supplement shall be included in each solicitation and in resulting contracts where the contract value is estimated to be over $100,000 and in all acquisitions subject to the Trade Agreements Act. Notwithstanding this dollar limit, the clauses may be inserted in any other solicitation or negotiated contract when the contracting officer determines that to do so would further the policy in 225.602.

(2) The policy to afford duty-free entry to qualifying country end products and supplies is implemented by the inclusion of the clause at 252.225–7008 in most solicitations and contracts (See 225.605(S–70)).

(3) When the contracting officer has determined, in accordance with the policy of 225.602(a), that duty-free entry will be granted to items imported under a resulting contract, and includes the clauses at FAR 52.225–10 and 252.225–7014 of this supplement and/or at 252.225–7008, the provision at 252.225–7007 shall be included in the solicitation and contract to identify the specific supplies which are entitled to duty-free entry.

(4) The clause at 252.225–7014 requires offerors to include duty in the offered price for nonqualifying country end products, components and supplies. The inclusion of duty in the offered price is necessary for the evaluation of nonqualifying country offers under the Buy American Act (see subpart 225.1). Since it is also necessary to exclude from the contract price all duties to be exempted through the issuance of duty-free entry certificates, the contracting officer must reduce the offered price by the amount of duty identified in clause 252.225–7029.

(5) Duty shall not be exempted and duty-free entry certificates shall not be issued for end products, components or supplies already entered into the customs territory of the United States for which duty has already been paid.

(6) Duty-free entry certificates shall be issued as required for contracts containing the clauses prescribed by 225.605. Consistent with 225.602, duty-free entry certificates may also be issued in connection with any other contract (i.e. one not containing an appropriate clause) that falls within one of the following categories:

(i) Direct purchases of foreign supplies under a DoD prime contract, whether title passes at point of origin or at destination in the United States; *provided*, the contract states that the final price is exclusive of duty;

(ii) Purchases of foreign supplies by a domestic prime contractor under a cost-reimbursement type contract or by a cost-reimbursement type subcontractor (where no fixed-price prime or fixed-price subcontract intervenes between the purchaser and the Government), whether title passes at point of origin or at destination in the United States. If a fixed-price prime or fixed-price subcontract intervenes, the criteria stated in paragraph (a)(6)(iii) of this section should be followed; and

(iii) Purchases of foreign supplies by a fixed-price domestic prime contractor, a fixed-price subcontractor, or a cost-type subcontractor where a fixed-price prime contract, or fixed-price subcontract intervenes; *provided*, (A) the fixed-price prime contract and, where applicable, fixed-price subcontract prices are, or are amended to be, exclusive of duty; (B) the prime contractor and, where applicable, the subcontractors concerned certify that the supplies so purchased are to be delivered to the Government or incorporated in Government-owned property or in an end product to be furnished to the Government, and that the duty will be paid if such supplies or any portion thereof are utilized for other than the performance of the Government contract or disposed of other than for the benefit of the Government in accordance with the contract terms; and (C) such acquisition abroad is authorized by the terms of the contract, the applicable subcontract, or by the contracting officer. In any case, the procedures required by the clauses prescribed in 225.605 shall be followed to the extent practicable.

(7) When the clauses cited at 225.605 are used, the Contracting Officer shall list in the contract the name and address of the CAO administering the contract and its activity address number (Appendix N of this supplement) in paragraph (d) of the clause at 252.225–7014 or paragraph (k) of the clause at 252.225–7008.

(b) *Formal entry and release*—(1) *CAO Responsibilities.* The Contracting Officer assigned to administer the contract must assure that prime contractors are aware of and understand any Duty-Free Entry clause requirements. Contractors should understand that failure by them or their subcontractors to include the data required by the clause will result in the shipment being treated as a shipment without benefit of free entry under Section XXII, Chapter 98, Subchapter VIII, item 9808.00.30 of the Harmonized Tariff Schedule of the United States.

(2) *Duty-Free Entry Entitlements.* Upon receipt of the required notice of purchase of foreign supplies from the prime contractor or any tier subcontractor, the contracting officer administering the prime contract will verify the duty-free entitlement of goods to be entered under the contract. A review of the prime contract should ensure foreign supplies (quantity and price) identified in the notice are required for the performance of the contract.

(3) *Adjustment to Prime Contract Price.* When notification is received from the contractor by the administrative contracting officer indicating that a foreign purchase is being placed that was not identified at the time of the prime contract award, a reduction to the prime contract price may be required in accordance with the Duty-Free Entry clause at FAR 52.224–10 pursuant to 225.603(a)(6) of this supplement. After determining the amount of duty that would be payable if duty-free entry certificates were not issued, an equitable adjustment to the prime contract price shall be made unless otherwise approved by the procuring contracting officer. Unless retained in accordance with 242.203, the authority to negotiate and issue such modifications reducing the contract price has been delegated to the ACO in accordance with 242.302(a) (S–73). After determining the price of foreign supplies exclusive of duty, the contracting officer administering the contract shall advise the contractor that that amount will be the maximum dollar value of supplies for which duty-free entry certificates will be issued.

(4) *Data Required by DCASR New York.* (i) Within 20 days of receipt of the notification of purchase of foreign supplies, ACOs will forward the following information to DCASR New York in the format shown below:

TO: Commander
DCASR New York
ATTN: Customs Division, International Logistics Office
201 Varick Street
New York, NY 10014

A contractor notification of the purchase of foreign supplies has been received in accordance with FAR 52.225–10 and 252.225–7014 of the DoD FAR Supplement or 252.225–7008 of the Supplement. Verification has been made that foreign supplies are required for the performance of the contract. If required, prime contract price has been or will be adjusted in accordance with 225.603(b)(3) of the DoD FAR Supplement.

In accordance with 225.603(b)(4) of the Supplement, the following information is provided:

Prime Contractor Name:
Prime Contractor Number plus Delivery Order Number, if applicable:
Total Dollar Value of the Prime Contract or Delivery Order:
Expiration Date of the Prime Contract or Delivery Order:
Foreign Supplier Name:
Number of the Subcontractor/Purchase Order for Foreign Supplies:
Total Dollar Value of the Subcontract for Foreign Supplies:
Expiration Date of the Subcontract for Foreign Supplies:
CAO Activity Address number (Appendix N of the DoD FAR Supplement):
Signature:
Title:

(ii) If a contract modification results in a change to any data previously furnished to DCASR New York to verify duty-free entitlement, a revised notification of the changed data shall be forwarded to DCASR New York.

(5) *Customs Forms and Duty-Free Entry Certificates*—(i) *Execution of Duty-Free Entry Certificates.* The responsibility for issuing duty-free entry certificates for foreign supplies purchased under a DoD contract or subcontract rests with the Chief, Customs Division, International Logistics Office, DCASR New York. Upon receipt of import documentation for incoming shipments from the contractor, his agent, or the U.S. Customs Service, the Chief, Customs Division, International Logistics Office, DCASR New York will verify the duty-free entitlement and execute the duty-free entry certificate.

(ii) *Customs Import Documentation.* Upon arrival of foreign supplies at ports of entry, the consignee, generally the contractor or his agent (import broker) for shipments to other than a military installation, will file U.S. Customs Forms 7501, 7501A, or 7506 and U.S. Customs Form 3461, with the District Director of Customs.

225.604 Exempted supplies.

(b) *Supplies for Vessels or Aircraft Operated by the United States.* (1) The term "certain supplies (not including equipment)" includes articles known as "stores", such as food, medicines and toiletries, and, in addition, all consumable articles necessary and appropriate for the propulsion, operation, and maintenance of the vessel or aircraft, such as fuel, oil, gasoline, grease, paint, cleansing compounds, solvents, wiping rags, and polishes. It does not include portable articles necessary and appropriate for the navigation, operation or maintenance of vessel or aircraft and for the comfort and safety of the persons on board, such as rope, bolts and nuts, bedding, china and cutlery, which are included in the term "equipment." The procedures to be followed in the issuance of such certificates shall be prescribed by the respective Departments.

(2) The duty-free entry certificate referred to in this paragraph shall be printed, stamped, or typed on the face of Customs Form 7501, or attached thereto, and shall be executed by a duly designated officer or civilian official of the appropriate Department in the following form:

(Date)_____

I certify that the acquisition of this material constituted a purchase of supplies by the United States for vessels or aircraft operated by the United States, and is admissible free of duty pursuant to 19 U.S.C. 1309.

(Name) _____
(Title) _____
(Organization) _____

225.605 Contract clause.

(a) When the contract is required to contain the clause at FAR 52.225–10, the contracting officer shall include the clauses at 252.225–7014. The clauses may be inserted in any other negotiated contract when the contracting officer determines that to do so would further the policy in 225.602 and in any such case, the dollar figure in paragraphs (b)(1) and (i)(2) of the clause in FAR 52.225–10 may be reduced appropriately.

(c) The provision at 252.225–7007 of this Supplement will be used to list specific supplies that the contracting officer knows will be accorded duty-free entry in accordance with 225.603.

(S–70) *Duty-Free Entry—Qualifying Country End Products and Supplies.* The clause at 252.225–7008 shall be inserted in all contracts for supplies and in all contracts for services involving the furnishing of supplies, except when simplified small purchase procedures are used or in contracts for supplies exclusively for use outside the United States.

25. Section 225.7310 is amended by revising paragraph (a); by revising the first sentence of paragraph (b)(2) to read: "When authorized, offset provisions typically require the Military Departments or U.S. prime contractors, or both, to provide opportunities for foreign sources to obtain contracts in accordance with the terms and conditions of the particular DoD offset agreement."; by revising paragraph (c); and by removing paragraph (d); to read as follows:

225.7310 Implementation of offset arrangements negotiated pursuant to foreign military sales agreements.

(a) *Scope.* This section sets forth policies and procedures concerned with the fulfillment of Department of Defense offset arrangements negotiated pursuant to an FMS agreement (commonly referred to as an "FMS/offset arrangement"). The purpose of an FMS/offset arrangement is to fulfill commitments negotiated pursuant to an FMS agreement. The general policy with regard to the fulfillment of these commitments is to exempt the FMS country's products from the requirements of the Buy American Act on a case-by-case basis consistent with the guidance in 225.7310(b)(2). In general it is not appropriate to establish an offset goal or objective. If, however, in special circumstances it is deemed to be in the national interest to establish an offset goal or objective, the offset goal or objective may be stated as either (1) a certain percentage of the FMS agreement dollar value, or (2) a specific dollar amount, or a combination thereof.

(b) *General.* (1) Since May 4, 1978, it has been DoD policy not to enter into government-to-government offset agreements because of the inherent difficulties in negotiating and implementing such arrangements. Exceptions to this policy must be approved by the Secretary of Defense or his Deputy and will only be made when there is no feasible alternative to ensure the successful completion of FMS transactions considered to be of significant importance to the national security interests of the United States.

* * * * *

(c) *Procedures.* Whenever an FMS agreement involves a single major weapon system, the Department responsible for acquisition of the weapon system will be responsible for managing any resulting FMS/offset

arrangement. If an FMS agreement involves the sale of items from two or more Departments, OASD(P&L) may either direct that one Department be responsible for coordinating the implementation of the FMS/offset arrangement, or apportion responsibility for managing the offset program among two or more Departments.

225.7314 [Removed]

26. Section 225.7314 is removed.

Subpart 225.74—[Amended]

27. Subpart 225.74 is amended by substituting in the title the word "Qualifying" in lieu of the words "NATO Participating".

28. Sections 225.7400 through 225.7404 are revised to read as follows:

225.7400 Scope of subpart.

This subpart implements the Memoranda of Understanding (MOU) and other international agreements between the United States and qualifying countries set forth in Appendix T.

225.7401 Policy.

DoD policy with regard to the application of domestic preference laws and programs to offers of products from countries listed at 225.7403 is based on the agreements set forth in Appendix T. Accordingly, offers of defense equipment from qualifying countries may be exempt from domestic preference laws and programs. (See 225.7402 and 225.7403 below).

225.7402 Exceptions.

(a) This subpart applies except where restricted by:

(1) provisions of U.S. National Disclosure Policy (NDP), DoD Directive 5230.11;

(2) U.S. defense mobilization base requirements which are purchased under the authority of FAR 6.302-3(a)(2)(i) (See 225.7405 for a representative list of excluded items and application to Canadian Planned Producers.);

(3) U.S. laws or regulations (e.g., the annual DoD Appropriations Act—(225.70)); and

(4) U.S. Industrial Security Requirements.

(b) This subpart does not apply to construction contracts.

225.7403 Procedures for purchases from qualifying countries.

(a) *Solicitation Procedures*—(1) *Solicitation of Sources in Qualifying Countries.* (i) Qualifying country sources shall be included on bidders mailing lists and comparable source lists upon request by such sources in accordance with the procedures in FAR 14.205. Requests of this nature should be forwarded by qualifying country sources to the activity having acquisition responsibility for the supplies involved.

(ii) The normal criteria for soliciting and making awards under FAR part 19 for small business concerns and FAR part 20 for labor surplus area firms shall be utilized without regard to the fact that there are potential qualifying country sources for the end product, except items developed under the U.S./Canadian Development Sharing Program (See Appendix T). Offers of a foreign end product, including qualifying country end products, shall not be considered on any acquisition, or part thereof, identified for the exclusive participation for such firms.

(iii) Solicitations shall be sent directly to qualifying country sources except when restricted by 225.105, 225.7402, 225.7405 and paragraph (a)(1)(ii) of this section. In addition, Canadian sources shall also be solicited through the Canadian Commercial Corporation in accordance with 225.7104.

(iv) When solicitation destinations are outside the United States, international air mail shall be utilized where security classification permits (see FAR 14.202 and FAR 14.203).

(v) If unusual technical or security requirements would preclude the acquisition of otherwise acceptable defense equipment from qualifying country sources, the need for such requirements should be specifically reviewed. Under no circumstances will unusual technical or security requirements be imposed solely for the purpose of precluding the acquisition of defense equipment from qualifying countries.

(vi) Qualifying country sources shall not be automatically excluded from submitting offers because their supplies have not been tested and evaluated by a Department. Departments which find it necessary to limit solicitations to sources whose items have been service tested and evaluated by the department shall make provision for considering supplies from qualifying country sources which have been tested and accepted by the qualifying country for service use, subject to U.S. confirmatory test, if necessary. Where it appears that these provisions might adversely delay service programs, the concurrence of the Department of Defense Acquisition Executive, USDA, shall be obtained prior to exclusion of the qualifying country from consideration. Sufficiency of qualifying country service testing should be considered on a case-by-case basis. When confirmatory tests of qualifying country end products are deemed necessary by the department, U.S. test and evaluation standards, policies, and procedures shall apply.

(vii) Subject to 225.7402, industry representatives from a qualifying country shall be permitted to attend symposia, program briefings, prebid conferences (FAR 14.207 and FAR 15.409), and like meetings which address U.S. defense equipment needs and requirements. When practical, these meetings should be structured so as to allow attendance by representatives of qualifying country concerns.

(2) *Submission of Offers.* Qualifying country sources competing for DoD requirements must be responsive to the terms and conditions of DoD solicitations.

(3) *Evaluation of Offers from Qualifying Country Sources.* (i) It is inconsistent with the public interest to apply the restrictions of the Buy American Act, and the Balance of Payments program with respect to acquisition of defense equipment (but, see 225.7402(b) for construction contracts) which is mined, produced, or manufactured in any of the following qualifying countries:

Belgium
Canada
Denmark
Egypt
Federal Republic of Germany
France
Greece
Israel
Italy
Luxembourg
Netherlands
Norway
Portugal
Spain
Turkey
United Kingdom of Great Britain and Northern Ireland

Therefore, offers of end products from the above listed qualifying countries shall be evaluated in accordance with 225.105 and subpart 225.3.

(ii) Individual procurements for products of the following listed countries may be exempted from application of the Buy American Act and Balance of Payments Program:

Australia
Sweden
Switzerland

(A) Offers of end products from the above listed countries shall be evaluated as required by 225.7403(a)(3)(i). If after such evaluation the offer from the above listed country is low or otherwise eligible for award, the contracting officer shall request exemption of the Buy American Act as inconsistent with the public interest.

(B) To obtain an exemption of the Buy American Act under FAR 25.102(a)(3) the contracting officer shall process a Determination and Findings for signature at the appropriate level as set forth at 225.102(S–70). The Determination and Findings shall be substantially as follows for end items, or modified as necessary for components:

SERVICE OR AGENCY

Exemption of the Buy American Act (41 U.S.C. 10a–d)

Determination and Findings

Upon the basis of the following findings and determination which I hereby make in accordance with the provisions of FAR 25.102, acquisition of (qualifying country—identify country) (describe item) may be made as provided below.

Findings

1. The (Contracting Activity) proposes to purchase under contract number, _____, mined, produced or manufactured in (country of origin). The total estimated cost of this acquisition is _____.

2. The United States Government (USG) and the Government of _____ have agreed to remove barriers to procurement at the prime and subcontract level for defense equipment produced in each other's countries insofar as laws and regulations permit.

3. The Agreement provides that competitive offers of (qualifying country) end products will be evaluated by the Department of Defense without imposing any price differential under the Buy American Act and without taking applicable U.S. customs and duties into consideration so that (qualifying country) items may better compete, for sales of defense equipment to the Department of Defense. In addition, the Agreement stipulates that acquisitions of (qualifying country) items must fully satisfy Department of Defense requirements for performance, quality, and delivery and shall cost the Department of Defense no more than would comparable U.S. source or other foreign source defense equipment eligible for award.

4. In order to achieve the above objectives, the solicitation contained the Buy American Act and Balance of Payments Program clause, 252.225–7001, or the Buy American Act, Trade Agreements Act, and the Balance of Payments Program clause, 252.225–7006. Offers were solicited from other sources and the offer received for (qualifying country end item) is found to be otherwise eligible for award.

Determination

Pursuant to the Buy American Act (41 U.S.C. 10a–d), I hereby determine that it is inconsistent with the public interest to apply the restrictions of the Buy American Act to the proposed offer.

_____ _____

(Date)

(b) *Subcontracting with Qualifying Country Sources.* In reviewing prime contractor subcontracting procedures, the contracting officer shall assure that the prime contract does not preclude qualifying country sources from competing for subcontracts, except when restricted by national security interest reasons, mobilization base considerations or applicable U.S. laws or regulations.

(c) *Industrial Security for Qualifying Countries.* Required procedures designed to safeguard classified defense information which may be necessary for the performance of contracts awarded to qualifying country sources are set forth in the DoD Industrial Security Regulation DoD 5220.22–R (implemented for the Army by AR 380–49; for the Navy by OPNAV Instruction 5540.6L; for the Air Force by AFR 205–4; for the Defense Communications Agency by DCA Inst. 240–110–8; and for the Defense Mapping Agency by DMA Inst. 5520.22).

225.7404 Contract administration.

(a) Arrangements have been made with some qualifying countries to provide reciprocal contract administration services; some arrangements are at no cost to either government. See the appropriate country's MOU (at Appendix T) to determine whether such an annex has been negotiated and what contract administration functions are covered.

(b) When contract administration services are requested on contracts to be performed in qualifying countries, except Canada, (See 225.71) the request should be directed to the cognizant activity in accordance with DoD 4105.59–H, Section II, Part 2 (DoD Directory of Contract Administration Services Components). Contract administration services required with respect to DoD subcontracts placed by qualifying country sources, except Canada, (See subpart 225.71) in the United States will be arranged by the cognizant activity in accordance with DoD 4105.59H, Section II, Part 2 (DoD Directory of Contract Administration Services Components).

(c) The Contract Administration Activity receiving a delegation or secondary delegation shall review the delegation to determine whether any portions of the delegation are covered by MOU annexes, and delegate those functions to the appropriate organization in the qualifying country's government.

(d) Information on quality assurance delegations to foreign governments is contained in DFARS subpart 246.4, Government Contract Quality Assurance.

225.7406 [Removed]

225.7406 [Redesignated from 225.7405]

29. Section 225.7406 is removed; section 225.7405 is redesignated as section 225.7406, and a new section 225.7405 is added to read as follows:

225.7405 Audit.

MOUs with some qualifying countries contain annexes which provide for reciprocal, "no-cost" audits of contracts and subcontracts (pre- and post-award). See Appendix T to determine if such an annex is applicable to a particular qualifying country. Requests for audits in qualifying countries should be handled in accordance with 215.805–5(c)(1)(S–70)(A) with the request being sent to the administrative contracting officer (ACO) at the cognizant CAS activity listed in DoD 4105.59–H, Section II, Part 2 (DoD Directory of Contract Administration Services Components). An advance copy of the request is sent to the focal point identified in the audit annex.

Subpart 225.75—[Removed]

30. Subpart 225.75 is removed.

Subpart 225.76—[Removed]

31. Subpart 225.76 is removed.

PART 246—[AMENDED]

32. Section 246.406 is amended by redesignating the existing paragraphs (S–71) (1) and (2) as (S–71)(1) (i) and (ii) respectively; by redesignating the existing paragraph (S–71) introductory text as paragraph (S–71) (1); by adding paragraph (S–71) introductory text; by redesignating the existing paragraph (S–72) introductory text as (S–71)(2) introductory text; by redesignating the existing paragraphs (S–72) (1) through (4) as (S–71)(2) (i) through (iv) respectively; and by removing paragraph (S–73); to read as follows:

246.406 Foreign Governments.

* * * * *

(S–71) *Reciprocal Quality Assurance Agreements.* A Memorandum of Understanding (MOU) with a foreign country may contain an annex that provides for the reciprocal performance of quality assurances services. MOUs are published in DFARS Appendix "T" and should be checked to determine whether such an annex exists for the country where a defense contract will be performed. See DFARS subpart 25.74, Purchases from Qualifying Country Sources, for more information about MOUs.

* * * * *

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

33. 252.225–7000 is revised to read as follows:

252.225–7000 Buy American Act-Balance of Payments Program Certificate.

As prescribed at 225.109(a)(S–70), insert the following provision:

Buy American Act-Balance of Payments Program Certificate (XXX 1990)

(a) The Offeror hereby certifies that each end product, except the end products listed below, is a domestic end product (as defined in the clause entitled "Buy American Act and Balance of Payments Program") and that components of unknown origin have been considered to have been mined, produced, or manufactured outside the United States or a qualifying country.

Foreign End Products

Line Item No.

_____

_____

Country of Origin

_____

_____

(List all qualifying country end products and all nonqualifying country end products)

(b) Offers will be evaluated by giving preference to domestic end products and foreign qualifying country end products over foreign nonqualifying country end products. In order to obtain such preference in the evaluation of each foreign end product listed in paragraph (a) above, it is necessary that offerors identify and certify, below, those foreign end products identified above that are qualifying country end products or they will be deemed nonqualifying country end products. Offerors must certify by stating the applicable line item numbers below.

The Offeror certifies that the following supplies as are "qualifying country end products" as defined in the clause entitled "Buy American Act and the Balance of Payments Program."

(_____)

(Insert line item no.)

(End of provision)

34. 252.225–7001 is revised to read as follows:

252.225–7001 Buy American Act and The Balance of Payments Program.

As prescribed at 225.109(d)(S–70), insert the following clause.

Buy American Act and the Balance of Payments Program (XXX 1990)

(a) This clause implements the Buy American Act (41 U.S.C. Section 10a–d) in a manner that will encourage a favorable international balance of payments by providing a preference to domestic end products over foreign end products, except for end products which are qualifying country end products. For the purpose of this clause—

(1) *Components* means those articles, materials, and supplies directly incorporated into end products.

(2) *Qualifying country* means any country set forth at DoD FAR Supplement 225.7403.

(3) *Nonqualifying country* means any country, other than the United States, that is not a qualifying country listed at DoD FAR Supplement 225.7403.

(4) *Qualifying country components* means an item mined, produced, or manufactured in a qualifying country.

(5) *End Products* means those articles, materials, and supplies to be acquired for public use under the contract. As to a given contract, the end products are the line items to be delivered to the Government, as specified in the contract, including supplies to be acquired by the Government for public use in connection with service contracts but excluding installation and other services to be performed after delivery.

(6) *Domestic end product* means (i) an unmanufactured end product which has been mined or produced in the United States, or (ii) an end product manufactured in the United States if the cost of its qualifying country components and its components which are mined, produced, or manufactured in the United States exceeds fifty percent (50%) of the cost of all its components. The cost of components shall include transportation costs of the place of incorporation into the end product and U.S. duty (whether or not a duty-free entry certificate may be issued). A component shall also be considered to have been mined, produced, or manufactured in the United States (regardless of its source in fact) if the end product in which it is incorporated is manufactured in the United States and the component is of a class or kind (iii) determined by the Government to be not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality, or (iv) as to which the Secretary concerned has determined that it would be inconsistent with the public interest to apply the restrictions of the Buy American Act.

(7) *Foreign end product* means an end product other than a domestic end product.

(8) *Qualifying country end product* means (i) an unmanufactured end product mined or produced in a qualifying country, or (ii) an end product manufactured in a qualifying country if the cost of the components mined, produced, or manufactured in the qualifying country and its components mined, produced, or manufactured in the United States exceeds fifty percent (50%) of the cost of all its components.

(b) The Contractor agrees that there will be delivered under this contract only domestic end product unless, in its offer, it specified delivery of foreign end products in the clause entitled "Buy American Act and Balance of Payments Program Certificate." An offer certifying that a qualifying country end product will be supplied requires the Contractor to supply a qualifying country end product or, at the Contractor's option, a domestic end product. An offer based on supplying a nonqualifying country end product, if accepted, will permit the Contractor to supply a product without regard to the requirements of this clause.

(c) Offers will be evaluated in accordance with the policies and procedures of FAR part 25 and DoD FAR Supplement part 225.

(d) The offered price of nonqualifying country end products must include all applicable duty. Generally, when the Buy American Act is applicable, each nonqualifying country offer of defense equipment shall be adjusted for the purpose of evaluation by adding 50% of the offer, inclusive of duty.

(End of clause)

35. Section 252.225–7005 is revised to read as follows:

252.225–7005 Buy American Act—Trade Agreements Act—Balance of Payments Program Certificate.

As prescribed at 225.407(a)(1), insert the following provision:

Buy American Act—Trade Agreements Act—Balance of Payments Program Certificate (XXX 1990)

(a) The Offeror hereby certifies that each end product, except the end products listed below, is a domestic end product (as defined in the clause entitled "Buy American Act, Trade Agreements Act" and Balance of Payments Program") and that components of unknown origin have been considered to have been mined, produced, or manufactured outside the United States or a qualifying country.

FOREIGN END PRODUCTS

Line Item No.	Country of Origin
_____	_____
_____	_____

(List all qualifying country end products and all nonqualifying country end products.)

(b) Offers will be evaluated by giving preference to domestic end products, qualifying country end products, designated country end products and Caribbean Basin country end products over foreign nonqualifying country end products. In order to obtain such preference in the evaluation of each foreign end product listed in paragraph (a) above, it is necessary that offerors identify and certify, below, those foreign end products identified above that are qualifying country end products, designated country end products, or Caribbean Basin country end products. Products which are not identified and certified below will not be deemed qualifying country end products, designated country end products, or Caribbean Basin country end products. Offerors must certify by inserting the applicable line item numbers in the appropriate brackets.

(1) The Offeror certifies that the following supplies are "qualifying country end products" as defined in the clause entitled "Buy American Act, Trade Agreements Act, and the Balance of Payments Program."

_____)

(Insert line item no.)

(2) The Offeror certifies that the following supplies qualify as "designated country end products" as that term is defined in the clause entitled "Buy American Act, Trade Agreements Act, and Balance of Payments Program."

(_____)

(Insert line item no.)

(3) The Offeror certifies that the following supplies qualify as "Caribbean Basin Country end products" as that term is defined in the clause entitled "Buy American Act, Trade Agreements Act, and Balance of Payments Program."

(_____)

(Insert line item no.)

(End of provision)

36. Section 252.225–7006 is revised to read as follows:

252.225–7006 Buy American Act, Trade Agreements Act, and the Balance of Payments Program.

As prescribed at 225.407(a)(2), insert the following clause:

Buy American Act, Trade Agreements Act, and the Balance of Payments Program (XXX 1990)

(a) This clause implements the Buy American Act (41 U.S.C. Section 10 a–d), the Trade Agreements Act of 1979 (19 U.S.C. 2501 et seq.), and the Caribbean Basin Initiative as provided for in Executive Order 12260 in a manner that will encourage a favorable international balance of payments by providing a preference to domestic end products over foreign end products, except for end products which are qualifying country end products, designated country end products or Caribbean Basin end products. For the purpose of this clause—

(1) *Components* means those articles, materials, and supplies directly incorporated into end products.

(2) *Qualifying country* means any country set forth at DoD FAR Supplement 225.7403.

(3) *Nonqualifying country* means any country, other than the United States, that is not a qualifying country listed at DoD FAR Supplement 225.7403.

(4) *Qualifying country component* means an item mined, produced, or manufactured in a qualifying country.

(5) *End Product* means those articles, materials, and supplies to be acquired for public use under the contract. As to a given contract, the end products are the items to be delivered to the Government, as specified in the contract, including supplies to be acquired by the Government for public use in connection with service contracts but excluding installation and other services to be performed after delivery.

(6) *Domestic end product* means (i) an unmanufactured end product which has been mined or produced in the United States, or (ii) an end product manufactured in the United States if the cost of its qualifying country components and its components which are mined, produced, or manufactured in the United States exceeds fifty percent (50%) of the cost of all its components. The cost of components shall include transportation costs to the place of incorporation into the end product and U.S. duty (whether or not a duty-free entry certificate may be issued). A component shall also be considered to have been mined, produced, or manufactured in the United States (regardless of its source in fact) if the end product in which it is incorporated is manufactured in the United States and the component is of a class or kind (iii) determined by the Government to be not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality, or (iv) as to which the Secretary concerned has determined that it would be inconsistent with the public interest to apply the restrictions of the Buy American Act.

(7) *Foreign end product* means an end product other than a domestic end product.

(8) *Qualifying country end product* means (i) an unmanufactured end product mined or produced in a qualifying country or (ii) an end product manufactured in a qualifying country if the cost of the components mined, produced, or manufactured in the qualifying country and its components mined, produced, or manufactured in the United States exceeds fifty percent (50%) of the cost of all its components.

(9) *Designated country end product* means an article that (i) is wholly the growth, product, or manufacture of the designated country, or (ii) in the case of an article which consists in whole or in part of materials from another country or instrumentality, has been substantially transformed into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was so transformed. The term includes services (except transportation services) incidental to its supply; *Provided*, That the value of those incidental services does not exceed that of the product itself. It does not include service contracts as such.

(10) *Caribbean Basin country end product* means (i) an article that (A) is wholly the growth, product, or manufacture of a Caribbean Basin country (as defined in section 25.401 of the Federal Acquisition Regulation (FAR)), or (B) in the case of an article which consists in whole or in part of materials from another country or instrumentality, has been substantially transformed into a new and different article of commerce with a name, character, or use distinct from that of the article of articles from which it was so transformed. The term includes services (except transportation services) incidental to its supply; *Provided*, that the value of those incidental services does not exceed that of the product itself. It does not include service contracts as such. (ii) the term excludes products which are excluded from the duty-free treatment for Caribbean countries under the Caribbean Basin Economic Recovery Act under 19 U.S.C 2703(b). These exclusions presently consist of (A) textiles and apparel articles which are subject to textile agreements; (B) footwear, handbags, luggage, flat goods, work gloves, and leather wearing apparel not designated as eligible articles for the purpose of the Generalized System of Preferences under title V of the Trade Act of 1974; (C) tuna, prepared or preserved in any manner in airtight containers; (D) petroleum, or any product derived from petroleum, and (E) watches and watch parts (including cases, bracelets and straps), of whatever type including, but not limited to, mechanical, quartz digital, or quartz analog, if such watches or watch parts contain any material which is the product of any country to which TSUS column 2 rates of duty apply.

(b) The Contractor agrees that there will be delivered under this contract only domestic end products unless, in its offer, it specified delivery of foreign end products in the clause entitled "Buy American Act, Trade Agreements Act, and Balance of Payments Program Certificate". An offer certifying that a qualifying country end product, a designated country end product, or a Caribbean Basin country end product will be supplied requires the Contractor to supply a qualifying country end product, a designated country end product, or a Caribbean Basin country end product, whichever is certified, or, at the Contractor's option, a domestic end product. An offer based on supplying a nonqualifying country end product, if accepted will permit the Contractor to supply a product without regard to the requirements of this clause; however, Contractors may not supply an end product listed at DoD FAR Supplement 225.403(S–70) with a total value at or above _____ dollars ($_____) (Contracting Officers shall insert the dollar threshold amount referenced in FAR 25.402(a)) from a country not listed at FAR 25.401, except as provided at DoD FAR Supplement 225.402(c).

(c) Offers will be evaluated in accordance with the policies and procedures of FAR part 25 and DoD FAR Supplement part 225.

(d) The offered price of nonqualifying country end products must include all applicable duty. The offered price of designated country end products, for line items subject to the Trade Agreements Act, should not include custom fees or duty. Generally, when the Buy American Act is applicable, each nonqualifying country offer of defense equipment shall be adjusted for the purpose of evaluation by adding 50% of the offer, inclusive of duty.

(e) The Trade Agreements Act applies to this procurement. Offers of designated and Caribbean Basin country end products will be evaluated without the Buy American Act and Balance of Payments Program price adjustment discussed in paragraph (d) above. See FAR subpart 25.4 and DoD FAR Supplement subpart 225.4 for procedures and exceptions.

(End of clause)

37. Section 252.225–7008 is revised to read as follows:

252.225–7008 Duty-Free Entry-Qualifying Country End Products and Supplies.

As prescribed at 225.605(S–70), insert the following clause:

Duty-Free Entry—Qualifying Country End Products and Supplies (XXX 1990)

(a) The requirements of this clause apply to this contract and subcontracts, which term includes purchase orders, that involve

supplies to be accorded duty-free entry, whether—

(1) Placed directly with a foreign concern as a prime contract; or

(2) As a subcontract or purchase order under a contract placed with a domestic concern.

(b) Except as otherwise approved by the Contracting Officer, no amount is or will be included in the contract price on account of duty with respect to—

(1) All end items which constitute "qualifying country end products" (as defined in DoD FAR Supplement 225.001) to be delivered under this contract; and

(2) All supplies (including, without limitation, raw materials, components, and intermediate assemblies) produced or made in qualifying countries, which are to be incorporated in the end items to be delivered under this contract; *Provided*, That such end items are manufactured in the United States or in a qualifying country, except supplies imported into the United States prior to the date of this contract or, in the case of supplies imported by a first or lower tier subcontractor hereunder, prior to the date of the subcontract.

(c) The Contractor warrants that all such qualifying country supplies, for which duty-free entry is to be claimed, are intended to be delivered to the Government or incorporated in the end items to be delivered under this contract and that duty shall be paid by the Contractor to the extent that such supplies, or any portion thereof (if not scrap or salvage) are diverted to nongovernmental use other than as a result of a competitive sale made, directed, or authorized by the Contracting Officer.

(d) The Government agrees to execute duty-free entry certificates and to afford such assistance as appropriate in order to obtain the duty-free entry of qualifying country supplies as to which the shipping documents bear the notation specified in paragraph (e) below, except as the Contractor may otherwise agree.

(e) All shipping documents submitted to Customs, covering foreign end products or supplies for which duty-free entry certificates are to be issued in accordance with this clause, shall

(1) Consign the shipments to the appropriate (i) Military Department in care of the particular Contractor, including the Contractor's delivery address, or (ii) the appropriate military installation; and

(2) Bear the following information:

(i) Prime contract number plus delivery order, if applicable;

(ii) Number of the subcontract/purchase order for foreign supplies, if applicable;

(iii) Identification of carrier;

(iv) The notation: "UNITED STATES GOVERNMENT, DEPARTMENT OF DEFENSE Duty-Free Entry to be claimed pursuant to Chapter 98, item 9808.00.30 of the Harmonized Tariff Schedule of the United States. Upon arrival of shipment at the appropriate port of entry, District Director of Customs, please release shipment under 19 CFR part 142 and notify Commander, Defense Contract Administration Services Region (DCASR) New York, ATTN: Customs Division, International Logistics Office, 201 Varick Street, New York, New York 10014, for execution of Customs Forms 7501, 7501A, or 7506 and any required duty-free entry certificates." (Note: The above notation shall be used only for direct shipments to a U.S. military installation. In cases where the shipment will be consigned to other than a military installation, e.g., a domestic contractor's plant, the shipping document notation shall be altered to insert the name and address of the contractor, agent or broker who will notify Commander, Defense Contract Administration Services Region (DCASR) New York, for execution of the duty-free entry certificates.)

(v) Gross weight in pounds (if freight is based on space tonnage, state cubic feet in addition to gross shipping weight);

(vi) Estimated value in U.S. dollars; and

(vii) Activity Address Number of the Contract Administration Office (CAO) actually administering the prime contract, e.g., for DCASMA Dayton, DLA8DP.

(f) Preparation of Custom Forms.

(1) Except for shipments consigned to a military installation, the Contractor shall prepare, or authorize an agent to prepare, any custom forms required for the entry of foreign supplies in connection with DoD contracts into the United States, its possessions, or Puerto Rico. The completed customs forms shall be submitted to the District Director of Customs with a copy to DCASR NY for execution of any required duty-free entry certificates. Shipments consigned directly to a military installation will be released in accordance with §§ 10.101 and 10.102 of the U.S. Custom Regulations.

(2) For shipments containing both supplies which are to be accorded duty-free entry and supplies which are not, the Contractor shall identify on the customs forms those items which are eligible for duty-free entry.

(g) The Contractor agrees to prepare (if this contract is placed direct with a foreign supplier) or to instruct the foreign supplier to prepare a sufficient number of copies of the bill of lading (or other shipping document) so that at least two of the copies accompanying the shipment will be available for use by the District Director of Customs at the port of entry and to consign the shipment as specified in paragraph (e) above, and to mark the exterior of all packages as follows:

(1) "UNITED STATES GOVERNMENT, DEPARTMENT OF DEFENSE"and

(2) The Activity Address Number applicable to the contract administration office actually administering the prime contract.

(h) The Contractor agrees to ensure that the Contracting Officer administering the prime contract is notified in writing of any purchase under the contract of qualifying country supplies to be accorded duty-free entry that are to be imported into the United States for delivery to the Government or for incorporation in end items to be delivered to the Government. Such notice shall be furnished to the CAO immediately upon the award to the qualifying country supplier. The notice shall identify:

(1) Prime contract number plus delivery order number if applicable;

(2) Total dollar value of the prime contract or delivery order;

(3) Expiration date of the prime contract or delivery order;

(4) Foreign supplier name;

(5) Number of the subcontract/purchase order for foreign supplies;

(6) Total dollar value of the subcontract for foreign supplies;

(7) Expiration date of the subcontract for foreign supplies;

(8) List of items purchased; and

(9) Certification by the purchaser of foreign supplies:

I certify that all such supplies for which duty-free entry is to be claimed are intended to be delivered to the Government or incorporated in the end items to be delivered under this contract, and that duty shall be paid by the Contractor to the extent that such supplies, or any portion thereof (if not scrap or salvage) are diverted to nongovernmental use other than as a result of a competitive sale made, directed or authorized by the Contracting Officer;

(10) The qualifying country; and

(11) The scheduled delivery date(s).

(i) This clause shall not apply to purchases of qualifying country supplies in connection with this contract if (1) such qualifying country supplies are identical in nature with supplies purchased by the Contractor or any subcontractor hereunder in connection with its commercial business; and (2) it is not economical or feasible to account for such supplies so as to assure that the amount of such supplies for which duty-free entry is claimed pursuant to this clause does not exceed the amount thereof purchased in connection with this contract.

(j) The Contractor agrees to insert the substance of this clause, including this paragraph (j) in all subcontracts for supplies hereunder. Each such subcontract shall require the subcontractor to identify this contract by its contract number on any shipping documents submitted to Customs covering supplies for which duty-free entry is to be claimed pursuant to this clause. The Contractor also agrees to ensure that the name and address of the Contracting Officer administering the prime contract [name and address of the CAO cognizant of the prime contract), and its Activity Address Number (Appendix N of the DoD FAR Supplement), and the information required by paragraphs (i) (1), (2) and (3) above is included in applicable subcontracts.

(End of clause)

252.225-7018 [Removed and Reserved]

38. Section 252.225–7018 is removed and reserved.

252.225-7020 [Removed and Reserved]

39. Section 252.225–7020 is removed and reserved.

252.225-7021 [Removed and Reserved]

40. Section 252.225–7021 is removed and reserved.

41. Section 252.225–7029 is added to read as follows:

§ 252.225-7029 Information for Duty Free Entry Evaluation.

As prescribed at 225.109(d) (S-72), insert the following provision:

Information for Duty Free Entry Evaluation (XXX 1990)

(a) Is your bid/offer based upon furnishing any supplies (i.e., end items, components, or material) of foreign origin other than those for which duty-free entry is to be accorded pursuant to the clause entitled "DUTY-FREE ENTRY-QUALIFYING COUNTRY END PRODUCTS AND SUPPLIES" herein?

Yes ( ) No ( )

(b) If the answer to (a) above is yes, the following questions must be answered:

1. Are such foreign supplies now in the United States?

Yes ( ) No ( )

2. Has the duty on such foreign supplies been paid?

Yes ( ) No ( )

3. If the answer to 2 above is no, what amount is included in your bid/offer to cover such duty? $_____

(c) If the duty has not been paid, the Government may elect to make award on a "duty-free" basis. In this event, the contract award will contain the clause entitled "DUTY-FREE ENTRY" and the clause entitled "SUPPLIES TO BE ACCORDED DUTY-FREE ENTRY", and the bid/offer price will, in the award, be reduced by the amount specified in (b)3. above. The bidder/offeror agrees to identify the foreign supplies which are subject to such duty-free entry at the request of the Contracting Officer.

(d) Bids/Offers will be evaluated on a "duty included" basis except to the extent that the supplies are "qualifying country end products" as defined in DoD FAR Supplement part 225 or to the extent the "duty-free" price is specified for use in the evaluation procedure.

(End of provision)

Appendix T—[Amended]

42. It is proposed that Appendix T, International Agreements, be revised to renumber and alphabetize the table of contents and include agreements with Greece and Switzerland.

[FR Doc. 90-13 Filed 1-9-90; 8:45 am]

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federal register

Wednesday
January 10, 1990

Part III

Federal Retirement Thrift Investment Board

5 CFR Part 1655

Loan Program Regulations; Interim Rule With Request for Comments

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

5 CFR Part 1655

Loan Program Regulations

AGENCY: Federal Retirement Thrift Investment Board.

ACTION: Interim rule with request for comments.

SUMMARY: The Executive Director of the Federal Retirement Thrift Investment Board (Board) is publishing in part 1655 of 5 CFR interim regulations concerning the requirements of the loan program for participants in the Thrift Savings Plan. 5 U.S.C. 8433(i) requires that the procedures for making loans available to Thrift Savings Plan participants be contained in regulations.

DATES: Interim rules are effective January 10, 1990. Comments must be received on or before March 12, 1990.

ADDRESS: Comments may be sent to: Merritt A. Willing, Federal Retirement Thrift Investment Board, 805 Fifteenth Street, NW., Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Merritt A. Willing (202) 523–6367.

SUPPLEMENTARY INFORMATION: Part 1655 describes the operation and requirements of the loan program established by the Board for the participants in the Thrift Savings Plan.

Section 1655.1 contains the definitions used in this part.

Section 1655.2 sets forth the basic eligibility requirements for participants who wish to apply for loans.

Section 1655.3 describes the various purposes for which a participant may receive a loan, i.e., educational expenses, medical expenses, purchase of a primary residence, or financial hardship.

Section 1655.4 provides that a participant is currently limited to two outstanding loans from his or her account at any time. A participant may have only one outstanding loan for the purchase of a primary residence or for financial hardship. However, if a participant has an outstanding undocumented hardship loan (for which applications were accepted before April 1, 1989), he or she may receive another hardship loan. The Executive Director will notify participants of any change in the permissible number or type of loans.

Section 1655.5 describes the permissible loan repayment periods under the loan program. The minimum loan repayment period is one year of scheduled payments. The maximum loan repayment period of a loan for the purchase of a primary residence is 15 years of scheduled payments. The maximum loan repayment period of all other loans is 4 years of scheduled payments.

Section 1655.6 describes the minimum and maximum amounts that a participant may borrow.

Section 1655.7 describes the interest rate that will be charged for TSP loans. The interest rate will be determined using the statutory G Fund rate.

Section 1655.8 provides that each participant with an outstanding loan will receive a quarterly loan statement from the recordkeeper.

Section 1655.9 describes the method of removing the principal amount borrowed from the participant's account for purposes of earnings allocation and of restoring the account with loan repayments. The removal from the account will be *pro rata* according to the portion of the account attributable to participant contributions and attributable earnings in the G Fund, the C Fund, and the F Fund. In turn, removal from the G Fund will be *pro rata* between the restricted G Fund money (money required to be invested in the G Fund pursuant to 5 U.S.C. 8438) and unrestricted G Fund money. When loan repayments are made, the principal and interest will be credited to the account on the day on which the recordkeeper processes the repayment. The portion of each principal repayment credited to restricted G Fund money will be the same as the portion of the original loan which was deducted from restricted G Fund money. The remaining principal and all the interest in each payment will be credited to the unrestricted portion of the G Fund, the C Fund, and the F Fund according to the proportions existing among those Funds' interim balances in the borrower's individual account on the last day of the previous month.

Section 1655.10 describes the requirements for a loan application.

Section 1655.11 describes the procedure for completing the Loan Agreement/Promissory Note. If the loan application meets the requirements of this Part, the recordkeeper will send a Loan Agreement/Promissory Note to the participant, along with supplemental forms. By completing, signing, and returning these documents and supporting material to the recordkeeper, the participant is obligated to repay the loan principal with interest by means of a discretionary allotment deducted from the participant's paycheck.

Section 1655.12 describes the circumstances under which a loan will be approved or denied by the recordkeeper. If denied, appeal may be made to the Board, under procedures contained in § 1655.24.

Section 1655.13 describes the circumstances under which the Board will declare a taxable distribution of a TSP loan. A distribution will be declared if any of the following conditions exist: the loan is not repaid within permissible time limitations; the participant is in non-pay status for a period of one year or more and has not repaid the loan in full; the participant separates from Government service with an outstanding loan and fails to repay within the time specified in this section; the participant dies; the participant fails to take the actions required by section 1655.15 to correct incorrect or missing payments; or there was a material misrepresentation made by the loan applicant.

Section 1655.14 states that the only method for making loan payments (except for prepayments) will be through discretionary payroll allotments. This section also states when loan payments are due.

Section 1655.15 describes the actions that will be taken by the recordkeeper when either no payments or incorrect payments have been made for a period in excess of 90 calendar days (except for persons on leave without pay). The participant will be notified of the problem during the 90-day period. At the end of the period, if the situation has not been remedied, the participant will be notified and asked to make the correct payments according to a new amortization schedule. If new payment schedules cannot be arranged which allow repayment of the loan within prescribed time periods, if the participant has separated from Government service, or if the participant refuses to reamortize, the loan must be repaid in full or a taxable distribution will occur.

Section 1655.16 describes the situations and conditions under which required or voluntary reamortization of the loan(s) may occur.

Section 1655.17 describes the conditions and methods under which a participant may prepay a loan. Partial prepayments will not be accepted. Prepayments will be accepted only in the form of a certified or cashier's check/draft or money order.

Section 1655.18 describes the procedures relating to current spouses that must be followed before loans are made to Civil Service Retirement System (CSRS) or Federal Employees' Retirement System (FERS) participants.

Section 1655.19 provides that no loan will be approved if it would cause the Plan to fail to comply with an obligation to pay child support or alimony or with

a qualifying court order, as described in 5 CFR part 1650.

Section 1655.20 describes the circumstances under which a loan for purchase of a primary residence will be made. Such loan will be made only for the purchase of a primary residence of the participant (or of the participant and spouse). This section defines the terms "primary residence" and "purchase." Also, it sets forth the costs that may be covered by a loan for the purchase of a primary residence and the documentation that is required for the loan.

Section 1655.21 describes the circumstances under which a loan for education expenses will be made. Education expenses must be incurred by the participant, for himself or herself, his or her spouse, or his or her dependent(s). Education expenses are defined as tuition, fees, room and board, or books and supplies that are required to complete a course of instruction at an educational institution whose primary function is formal instruction. Education expenses in the coming year are eligible for a loan. This section defines "educational institution" and sets forth documentation required for the loan.

Section 1655.22 describes the circumstances under which a loan for medical expenses will be made. Medical expenses are those expenses that are eligible for deduction for income tax purposes under 26 U.S.C. 213 (without reference to any income percentage limitations) and that are incurred by the participant for himself or herself, his or her spouse, or his or her dependents. A partial list of examples of medical expenses and acceptable required documentation is provided. An applicant may seek a loan to cover only those expenses not reimbursed or reimbursable by medical or health insurance.

Section 1655.23 describes the circumstances under which a loan for financial hardship will be made. Financial hardship is defined as an immediate and heavy financial need for which other financial resources are not reasonably available. Participants can apply for financial hardship loans by providing certain financial information as prescribed by the Executive Director.

Section 1655.24 describes the appeals process to be used by the loan applicant in the event of denial of a loan by the recordkeeper.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities. They will affect only internal Government procedures relating to loans made to participants in the Thrift Savings Plan.

Paperwork Reduction Act

I certify that these regulations do not require additional reporting under the criteria of the Paperwork Reduction Act of 1980.

Waiver of Notice of Proposed Rulemaking and 30-day Delay of Effective Date

Pursuant to 5 U.S.C. 553 (b)(B) and (d)(3), I find that in view of the requirements of the Federal Employees' Retirement System Act of 1986 (FERSA), as codified at 5 U.S.C. 8401, *et seq.*, good cause exists for waiving the general notice of proposed rulemaking and for making these regulations effective in less than 30 days.

List of Subjects in 5 CFR Part 1655

Employee benefit plans, Government employees, Retirement, Pensions.

Federal Retirement Thrift Investment Board.

Francis X. Cavanaugh,

Executive Director.

Part 1655 is added to chapter VI of title 5 of the Code of Federal Regulations to read as follows:

PART 1655—LOAN PROGRAM

Sec.

1655.1 Definitions.
1655.2 Eligibility for loans.
1655.3 Purpose of loans.
1655.4 Number of loans.
1655.5 Loan repayment period.
1655.6 Amount of loans.
1655.7 Interest rate.
1655.8 Quarterly loan statements.
1655.9 Effect of loans on individual account.
1655.10 Loan application.
1655.11 Loan agreement/promissory note.
1655.12 Loan approval.
1655.13 Distributions.
1655.14 Loan payments.
1655.15 Incorrect payments.
1655.16 Reamortization.
1655.17 Prepayment.
1655.18 Spousal rights.
1655.19 Court orders.
1655.20 Loans for purchase of a primary residence.
1655.21 Education loans.
1655.22 Medical loans.
1655.23 Hardship loans.
1655.24 Appeals.

Authority: 5 U.S.C. 8433(i) and 5 U.S.C. 8474.

§ 1655.11 Definitions.

Account or *Individual Account* means the account established for a participant in the Thrift Savings Plan under 5 U.S.C. 8439(a).

Agency means the entity employing a participant with an account in the Thrift Savings Plan.

Amortization means the reduction in a loan by periodic payments of principal and interest according to a schedule of payments.

Board means the Federal Retirement Thrift Investment Board.

C Fund means the Common Stock Index Investment Fund established under 5 U.S.C. 8438(b)(1)(C).

CSRS means the Civil Service Retirement System established by subchapter III of chapter 83 of title 5, United States Code or any equivalent retirement system.

Date of Application means the date on which the recordkeeper receives the loan application.

Days means calendar days except when otherwise stated.

Employee Contributions means any contributions made under 5 U.S.C. 8432(a), 5 U.S.C. 8351(a), 5 U.S.C. 8440a or the second 5 U.S.C. 8440a.

FERS means the Federal Employees' Retirement System established by chapter 84 of Title 5, United States Code or any equivalent retirement system.

F Fund means the Fixed Income Investment Fund established under 5 U.S.C. 8438(b)(1)(B).

G Fund means the Government Securities Investment Fund established under 5 U.S.C. 8438(b)(1)(A).

G Fund Rate means the interest rate computed under 5 U.S.C. 8438(f)(2).

Interim Account Balance means the unvalued account balance of a participant on any date.

Loan Issue Date means the date on which the recordkeeper authorizes a check for the loan principal amount to be issued.

Loan Process Date means the date the loan application is processed by the recordkeeper. This is the date that is printed on the Loan Agreement/Promissory Note.

Loan Repayment Period means the number of scheduled payments required to repay a loan in full.

Mid-Month Processing Cycle means the process, generally falling on or around the middle of a month, by which the recordkeeper allocates the amount of earnings to be credited to participant accounts in the Plan and authorizes disbursements from the Plan.

Participant means a person with an individual account in the Thrift Savings Fund.

Principal or *Principal Amount* means the amount borrowed by a participant from his or her individual account, or, after reamortization, the amount financed.

Recordkeeper means the organization designated by the Board as the Thrift Savings Plan's recordkeeper.

Required Reamortization means the mandatory recalculation of periodic payments of principal and interest, made to reduce a loan, at the demand of the Plan.

Thrift Savings Fund or *Fund* means the Fund described in 5 U.S.C. 8437.

Thrift Savings Plan or *Plan* means the Federal Retirement Thrift Savings Plan established under Subchapter III of the Federal Employees' Retirement System Act of 1986, 5 U.S.C. 8431, *et seq.*

Valuation Date means the date as of which earnings are allocated to individual accounts. For any month, this date is the last day of the month.

Vested Account Balance means that portion of the individual account which is not subject to forfeiture under 5 U.S.C. 8432(g).

Voluntary Reamortization means the recalculation of periodic payments of principal and interest, made to reduce a loan, at the request of a participant.

§ 1655.2 Eligibility for loans.

Only a participant who is in pay status with his or her agency and who has at least $1,000 in employee contributions and attributable earnings in his or her account may receive a loan, subject to the other terms and conditions set forth in this part. A participant who is separated from Government service may not receive a loan. Persons on leave without pay who are participating in the Thrift Savings Plan under part 1620 are also eligible to apply for a loan.

§ 1655.3 Purpose of loans.

Loans may be for the following purposes:

(a) Purchase of a primary residence, as described in § 1655.20;

(b) Education expenses, as described in § 1655.21;

(c) Medical expenses, as described in § 1655.22;

(d) Financial hardship, as described in § 1655.23.

§ 1655.4 Number of loans.

(a) A participant may have no more than two loans outstanding at any time. Only one of the two loans may be a loan for the purchase of a primary residence or for financial hardship. However, a participant who has an outstanding undocumented hardship loan (for which applications were accepted prior to April 1, 1989) may receive another hardship loan. A participant may have two loans for any of the other permissible purposes.

(b) From time to time, the Executive Director may determine if the overall number of loans, or the number of any type of loan, should be changed. Any such change will be announced in a notice published in the **Federal Register**.

§ 1655.5 Loan repayment period.

(a) *Minimum.* The minimum loan repayment period of any loan is one year of scheduled payments.

(b) *Maximum.* The maximum loan repayment period of a loan for the purchase of a primary residence is 15 years of scheduled payments. The maximum loan repayment period of any other loan is 4 years of scheduled payments.

§ 1655.6 Amount of loan.

(a) *Minimum amount.* The initial principal amount of any loan may not be less than $1,000.

(b) *Maximum amount.* The principal amount of a new or reamortized loan, when added to any outstanding loan principal, may not exceed any of the following:

(1) The portion of the participant's individual account balance that is attributable to employee contributions and earnings (including any outstanding loan principal).

(2) $50,000 minus the excess of the highest outstanding loan principal of the participant during the preceding year over the current outstanding loan principal.

(3) The greater of ½ of the participant's vested account balance (including any outstanding loan principal), or $10,000.

(c) Subject to the requirement of paragraph (a), a participant may request a loan for the maximum allowable amount as calculated in paragraph (b).

§ 1655.7 Interest rate.

(a) Except as provided in paragraph (b) of this section, loans will bear interest at the G Fund rate in effect on the date the application is received by the recordkeeper (date of application). The interest rate per payment is calculated by dividing this G Fund rate by the number of loan payments/pay periods scheduled in a period of 12 consecutive months.

(b) If the date of application occurs before the G Fund rate has been determined for that month, the loan will bear interest at the G Fund rate in effect during the month preceding the date of application.

(c) The interest rate calculated under this section remains fixed until the loan is repaid.

§ 1655.8 Quarterly loan statements.

Each participant with an outstanding loan or loans will receive quarterly loan statements that will describe the activity relating to each of his or her outstanding loans during the period covered.

§ 1655.9 Effect of loans on individual account.

(a) For purposes of earnings allocation, the amount borrowed will be removed from the participant's account as of the last valuation date prior to the loan issue date. As provided in Part 1645, the account will receive no earnings on the amount borrowed for the month in which the loan issue date occurs.

(b) The removal of the principal for earnings allocation purposes described in paragraph (a) of this section will be prorated according to the investment of the portion of the account represented by employee contributions and attributable earnings in the G Fund, the C Fund, and in the F Fund as of the most recent valuation date. The removal will be accomplished as follows:

(1) First, the percentage of the employee contributions in the individual account which is the restricted G Fund balance will be calculated. The restricted G Fund balance is the amount required to be invested in the G Fund under 5 U.S.C. 8438. That same percentage of the loan will be removed from the restricted G Fund portion of the account;

(2) Second, the remaining amount of the loan will be removed *pro rata* from the account based upon the proportion of the unrestricted G Fund, C Fund, and F Fund balances in the account.

(c) Loan payments, including both principal and interest, will be credited to the individual account of the participant repaying the loan for the month in which the loan payment is processed by the recordkeeper. Earnings on loan payments will be credited as described in Part 1645. Loan payments will be credited to the individual account as follows:

(1) The portion of principal attributable to the restricted G Fund balance (using the percentage calculated in accordance with paragraph (b)(1) of this section) will be credited to the restricted G Fund portion of the account;

(2) The portion of the payments (principal and all interest) remaining after deducting the amount determined in accordance with paragraph (c)(1) of this section will be credited *pro rata* to the unrestricted G Fund, the C Fund, and the F Fund based upon the proportions of the interim account balances of the unrestricted G Fund, C Fund, and F Fund balances in the borrower's individual account on the last day of the month prior to the month in which the loan payment is processed.

§ 1655.10 Loan application.

(a) A participant may apply for a loan by sending a completed and signed application to the recordkeeper.

(b) The participant must sign and date the application. By signing the application, the participant swears that the statements made in the application are true. An unsigned application will not be processed by the recordkeeper.

(c) The application must contain the following information:

(1) The participant's name, social security number, date of birth, current address, pay cycle, and whether the participant has a dual appointment;

(2) Purpose of the loan (which must be one of the four purposes listed in section 1655.3), amount requested, and loan repayment period;

(3) Marital status of the participant and, if married, the name and address of the participant's spouse;

(4) Any other information that the Executive Director may from time to time prescribe.

(d) Applications for hardship loans must contain additional information as described in § 1655.23.

§ 1655.11 Loan Agreement/Promissory Note.

(a) Upon determining that the application meets the requirements of this part, the recordkeeper will send the participant a Loan Agreement/Promissory Note which will reflect the terms and conditions of the loan and the date it was prepared (loan process date).

(b) By signing the Loan Agreement/Promissory Note, the participant is bound to follow all of its terms and conditions and certifies, to the best of his or her knowledge, under penalty of perjury, to the truth of all statements made and documentation given with the Loan Agreement/Promissory Note.

(c) The recordkeeper must receive the completed Loan Agreement/Promissory Note (including any required supporting documentation) within 45 calendar days of the loan process date or the loan agreement will be cancelled. If the 45th day falls on a Saturday, Sunday, or Federal holiday, the deadline will be the next business day.

(d) The signed Loan Agreement/Promissory Note must be accompanied by:

(1) A completed and signed discretionary payroll allotment form authorizing deduction of all amounts due under the Loan Agreement/Promissory Note, which deduction the participant agrees to maintain through his or her employing agency;

(2) Except in the case of hardship loans described in § 1655.23, a completed and signed supplemental loan documentation form and supporting materials that document the purpose of the loan and the amount requested. This required information is described in §§ 1655.20 through 1655.22;

(3) Except in the case of hardship loans described in section 1655.23, where it must be submitted with the loan application, a copy of a current earnings and leave statement. For purposes of this part, a "current" statement is one in which the ending date of the pay period on the statement is no more than 60 days before the date the recordkeeper receives the completed loan agreement;

(4) Any other information that the Executive Director shall from time to time require.

§ 1655.12 Loan approval.

(a) The application will be reviewed by the recordkeeper and will be accepted only if it conforms with the requirements of this part. Upon receipt of the application, the recordkeeper will determine whether:

(1) The participant is qualified to apply for a loan under § 1655.2;

(2) The loan is for one of the purposes listed in § 1655.3;

(3) The participant does not already have the maximum number of loans outstanding;

(4) The participant does not have a pending loan application;

(5) The requested loan does not exceed the maximum amounts set forth in § 1655.6(b) and is not less than the minimum amount set forth in § 1655.6(a). If the loan process date occurs during a month before the mid-month processing cycle, then the maximum and minimum amounts shall be determined using the interim account balance at the end of the prior month. If the loan process date occurs after the mid-month processing cycle but before the end of the month, then the maximum and minimum amounts will be determined using the most recent valued account balance;

(6) In the case of a hardship loan, the applicant has provided the information described in § 1655.23;

(7) The applicant is covered by a retirement system that is eligible to participate in the Thrift Savings Plan;

(8) A CSRS participant who is married but does not know the whereabouts of his or her spouse has been granted a waiver of notice as described in § 1655.18;

(9) The participant has not received a taxable loan distribution (as described in § 1655.13) from the Thrift Savings Plan within the 12 consecutive month period preceding the date of application except as a result of a failure to repay the loan upon the participant's separation from service or non-pay status for a period exceeding one year.

(b) Failure by the applicant to comply with any of the requirements of this part will result in rejection of the loan application. Rejection of a loan application by the recordkeeper may be subject to review and reversal by the Board. The applicant may appeal a rejection of a loan application by the recordkeeper to the Board under the procedures contained in § 1655.24.

(c) If the recordkeeper accepts the loan application, a Loan Agreement/Promissory Note will be sent to the applicant, as provided in § 1655.11. When the completed Loan Agreement/Promissory Note is returned by the applicant, along with the documentation required to be submitted under § 1655.11(d) and §§ 1655.20 through 1655.22, the loan will be initially approved or denied by the recordkeeper based upon the requirements of this part, including the following conditions:

(1) The participant has signed a promise to pay the loan and a statement that the information provided to the recordkeeper is true and complete to the best of the participant's knowledge;

(2) The earnings and leave statement provided in accordance with § 1655.11 shows that the participant will have at least 10 percent of his or her basic pay remaining after other scheduled salary deductions and allotments and after making the anticipated loan payment;

(3) Processing of the loan would not be prohibited by § 1655.19, relating to court orders;

(4) A FERS participant's spouse has consented to the loan or, if the spouse's whereabouts are unknown or exceptional circumstances make it inappropriate to secure such spouse's consent, a waiver of consent requirement, described in § 1655.18, has been granted;

(5) The completed Loan Agreement/Promissory Note is received by the recordkeeper within 45 days of the date it was prepared;

(6) The participant has completed and signed a loan payment allotment form;

(7) Any other conditions that the Executive Director may from time to time prescribe.

(d) The applicant may appeal a denial of a loan by the recordkeeper to the Board under the procedures contained in § 1655.24.

(e) The loan issue date will occur within 60 days of the date the loan is initially approved unless the recordkeeper determines;

(1) That a court order would prohibit the loan for the reasons described in § 1655.19;

(2) That the participant's employing agency has reported the death, retirement, or separation of the participant;

(3) That the participant's interim account balance on the loan issue date does not contain sufficient employee contributions and related earnings to make the loan;

(4) That the loan exceeds the maximum loan amount set forth in § 1655.6(b) as of the most recent valuation date; or

(5) That the loan does not comply with such other criteria as the Executive Director may from time to time prescribe.

(f) Loans will be issued once a month. After the loan issue date, the recordkeeper will provide information to the United States Treasury for mailing of a check for the principal amount of the approved loan to the participant.

(g) A loan is considered to have been made to a participant on the loan issue date.

§ 1655.13 Distributions.

(a) The Board will declare the unpaid loan principal, plus unpaid interest, to be a taxable distribution from the Plan if:

(1) A participant is in non-pay status for a period of one year or more and the participant has not prepaid the loan as provided in § 1655.17;

(2) A participant separates from Government service and does not repay the outstanding loan principal and interest in full within a date which is the earlier of:

(i) 90 calendar days after the date of the notice from the recordkeeper to the participant explaining his or her prepayment options that are available upon separation from Government service; or

(ii) 90 calendar days after the date of the notice from the recordkeeper to the participant that, because his or her payments were incorrect or missing for 90 calendar days (pursuant to § 1655.15(a)), his or her loan must be reamortized or prepaid or a taxable distribution will be declared;

(3) There are incorrect or missing payments (as described in § 1655.15) and the participant fails to or is not eligible to exercise one of the reamortization or prepayment options set forth in that section;

(4) Any material information provided in accordance with §§ 1655.10 or 1655.11 is found to be false;

(5) The loan is not repaid in full (including interest due) within five years, in the case of any loan other than a loan for purchase of a primary residence, or 18 years, in the case of a loan for purchase of a primary residence, of the loan issue date;

(6) The participant dies.

(b) If a distribution occurs in accordance with paragraph (a) of this section, the Board will notify the participant or, in the case of death, the estate of the amount and date of the distribution. The Board will report the distribution to the Internal Revenue Service as income for the year in which it occurs.

§ 1655.14 Loan payments.

(a) Loan payments (except for prepayments) may only be made through a discretionary payroll allotment. The allotment must remain in effect for the life of the loan.

(b) The initial payment on a loan is due on or before the 60th day following the loan issue date. The date when the initial payment is due may be adjusted by the Executive Director from time to time.

(c) Subsequent payments are due at regular intervals according to the participant's pay cycle as prescribed in the Loan Agreement/Promissory Note.

§ 1655.15 Incorrect payments.

(a) If correct payments are not processed by the recordkeeper for a period in excess of 90 calendar days from the applicable one of the following dates:

(1) The date of the last correct payment;

(2) The date of the first incorrect payment, if there have been no prior correct payments; or

(3) The date the first payment was due (as calculated under § 1655.14(b)), if there have been no payments;

the procedures stated in paragraph (b) of this section will apply.

(b) (1) Interest from the beginning of the 90-day period described in paragraph (a) of this section will be added to the outstanding loan principal and the participant will be required to reamortize the loan. If possible, a reamortization schedule will be calculated to reflect the continuation of the current payment experience. The recordkeeper will prepare and send a Rider to the Loan Agreement/Promissory Note and a new payroll allotment form to the participant. The recordkeeper must receive from the participant a signed Rider to the Loan Agreement/Promissory Note and a newly signed payroll allotment form within 30 calendar days of the date the Rider is prepared. If the 30th day falls on a Saturday, Sunday, or a Federal holiday, the deadline will be the next business day.

(2) If a reamortization schedule determined under paragraph (b)(1) of this section does not allow the loan to be repaid within 15 years of payments for a loan for purchase of a primary residence, or four years of payments for any other loan, and no later than 18 years less 120 days from the loan issue date for a loan for purchase of a primary residence, or five years less 120 days from the loan issue date for any other loan, the recordkeeper will choose a reamortization schedule with higher payments which will enable the entire amount of principal and interest to be repaid by the earlier of the end of four years of payments or five years less 120 days from the loan issue date or, for a loan for the purchase of a primary residence, 15 years of payments or 18 years less 120 days from the loan issue date. The recordkeeper will prepare and send a Rider to the Loan Agreement/Promissory Note to the participant and a new payroll allotment form. The recordkeeper must receive from the participant, within 30 calendar days of the date the Rider is prepared, the signed Rider to the Loan Agreement/Promissory Note, a current earnings and leave statement (as defined in § 1655.11(d)(3)), and a newly signed payroll allotment form. If the 30th day falls on a Saturday, Sunday, or a Federal holiday, the deadline will be the next business day. If the participant's current earnings and leave statement shows that the participant will meet the pay test described in § 1655.12(c)(2), the reamortized loan will be approved.

(3) If the reamortized payments determined under paragraph (b)(2) of this section do not meet the pay test described in § 1655.12(c)(2), the recordkeeper will attempt to calculate a reamortization schedule using the largest possible periodic payment that would meet the pay test and also permit the loan to be repaid within 18 years, less 120 days, of the loan issue date for a loan for the purchase of a primary residence, or five years, less 120 days, of the loan issue date for any other loan. If such a schedule can be prepared, the recordkeeper will prepare and send a Rider to the Loan Agreement/Promissory Note and a new payroll allotment form to the participant. The recordkeeper must receive from the participant the signed Rider to the Loan Agreement/Promissory Note, a newly signed payroll allotment form within 30 days of the date the Rider is prepared. If the 30th day falls on a Saturday, Sunday, or a Federal holiday, the deadline will be the next business day.

(4) If no reamortized payments can be calculated under paragraph (b)(3) of this section to allow the loan to be repaid within the five years less 120 days or 18 years less 120 days (as the case may be), and the participant does not prepay the loan, a taxable distribution will be declared.

(5) If the reamortized loan principal would exceed the maximum loan amount as calculated under § 1655.6(b), the loan will not be reamortized. The participant must prepay the loan or a taxable distribution will be declared.

(6) If a participant does not sign and return the Rider to the Loan Agreement/Promissory Note, along with any necessary documentation, as required by this section, and the participant does not prepay the loan, a taxable distribution will be declared.

(7) A reamortization will be calculated based on the assumption that the reamortization will be completed 40 days after the Rider to the Loan Agreement/Promissory Note is prepared.

(c) If a period of incorrect payments does not exceed the 90-day period described in paragraph (a) of this section, no reamortization is required under paragraph (b) of this section. Any unpaid principal will be paid by additional payments in the same amount as the existing payments added to the term of the loan. Any overpaid principal will cause the loan repayment period to be shortened. If the additional payments would extend the term of the loan beyond five years from the loan issue date (in the case of any loan other than a loan for the purchase of a primary residence) or 18 years from the loan issue date (in the case of a loan for the purchase of a primary residence), the participant must either reamortize the loan so as to establish scheduled payments that will repay it in full within such time periods or prepay the remaining unpaid amounts. If the participant does neither, a taxable distribution will be declared.

(d) For purposes of this section, incorrect payments include insufficient, excessive, and missing payments.

§ 1655.16 Reamortization.

(a) Reamortization of a loan will occur in the following situations:

(1) Under the rules stated in § 1655.15;

(2) Where a participant transfers between agencies and changes pay schedules, the loan will be required to be reamortized to reflect the changed schedule. A new payroll allotment form must be completed and signed by the participant to reflect this changed schedule;

(3) Where a participant has had his or her loan established on the basis of a particular pay schedule (e.g., biweekly), but actual loan payments are made on a different pay schedule (e.g., monthly), the loan will be reamortized to reflect the correct pay schedule. A new payroll allotment form must be completed and signed to reflect the correct pay schedule;

(4) A participant may voluntarily reamortize a loan, subject to the following conditions:

(i) A voluntary reamortization may occur only if the participant is not currently required to reamortize the loan under the rules stated in this part;

(ii) An outstanding loan may be voluntarily reamortized only once;

(iii) Under a voluntary reamortization, the participant can shorten or extend the loan repayment period, provided that the new loan repayment period, when added to the original loan repayment period, is not shorter than one year of scheduled payments and does not exceed 15 years of scheduled payments, in the case of a loan for the purchase of a primary residence, or four years of scheduled payments, in the case of all other loans.

(b) Before a loan can be reamortized, the recordkeeper must receive from the participant, within 30 days of the date a Rider to the participant's Loan Agreement/Promissory Note was prepared, a signed Rider to his or her Loan Agreement/Promissory Note which describes the estimated terms and conditions of the reamortized loan, a current earnings and leave statement (as defined in § 1655.11(d)(3)), if the new payment is higher, and a newly signed payroll allotment form. If the 30th day falls on a Saturday, Sunday, or Federal holiday, the deadline will be the next business day.

(c) Upon reamortization, the new principal balance of the loan will equal the unpaid principal on the date of reamortization, plus any interest due on the unpaid principal.

(d) The pay test described in § 1655.12(c)(2) must be met if the new payment is higher.

(e) A loan may only be reamortized if the new principal (as described in paragraph (c) of this section) does not exceed the maximum loan amount calculated under § 1655.6(b).

(f) The interest rate on a reamortized loan will be the same as the interest rate on the original loan.

§ 1655.17 Prepayment.

(a) A participant may prepay a loan in full at any time before the declaration of a distribution under § 1655.13 unless a separated participant has signed a statement that he or she does not intend to prepay. Partial prepayments are not permitted. Prepayment in full means receipt by the recordkeeper of payment of all principal and interest due in the form of a certified or cashier's check or certified draft or money order.

(b) If a participant returns a loan check to the recordkeeper in order to repay his or her loan, it will be treated as a prepayment. However, additional interest may be owed.

§ 1655.18 Spousal rights.

(a) Within seven calendar days of a CSRS participant's loan process date, the recordkeeper will send a notice to the participant's current spouse that the participant has applied for a loan.

(b) As a condition for approval of the Loan Agreement/Promissory Note for a FERS participant, the participant must provide the recordkeeper with any evidence the Board requires that the participant's current spouse has consented to the loan for which the participant has applied.

(c) A CSRS participant may obtain a waiver of the notification requirement of paragraph (a) of this section if the participant establishes, to the satisfaction of the Executive Director, that the spouse's whereabouts are unknown.

(d) A FERS participant may obtain a waiver of the consent requirement of paragraph (b) of this section if the participant establishes, to the satisfaction of the Executive Director:

(1) That the spouse's whereabouts are unknown; or

(2) That exceptional circumstances prevent the obtaining of consent.

(e) The procedures for obtaining the waivers (including the definition of exceptional circumstances) described in paragraphs (c) and (d) of this section will be the same as the procedures described in part 1650.

§ 1655.19 Court orders.

A loan will not be processed or approved if it would cause a failure to comply with an obligation to pay child support or alimony under 5 U.S.C. 8437(e) or with a qualifying court order, as defined in 5 CFR part 1650, that applies to the assets in the participant's individual account.

§ 1655.20 Loans for the purchase of a primary residence.

(a) A loan for the purchase of a primary residence will be made only for the purchase of the primary residence of the participant or the participant and his or her spouse and for related purchase costs. The participant must actually bear

all or part of the cost of the purchase of the primary residence. If the participant purchases a primary residence with someone other than his or her spouse, only the portion of the purchase costs that are borne by the participant will be considered in making the loan. A loan for the purchase of a primary residence will not be made for the purpose of paying off an existing mortgage or otherwise providing financing for an existing primary residence purchased more than 2 years earlier

(b) A primary residence must be used by the participant as his or her principal residence. A primary residence does not include a second home or vacation home. A participant cannot have more than one primary residence. A primary residence may include a houseboat, a house trailer, a condominium, or stock held in a cooperative housing corporation.

(c) Purchase of a primary residence means acquisition of the residence through the exchange of cash or other property or through the total construction of the new residence. Construction of an addition to or the renovation of a residence does not constitute "purchase" of a primary residence.

(d) Related purchase costs are any costs that are incurred directly as a result of the purchase or construction of a residence and which can be added to the basis of the residence for Federal tax purposes. However, "points" or loan origination fees charged for a loan, whether or not treated as part of the basis, will not be considered a purchase cost.

(e) The documentation required for a loan under this section is as follows:

(1) For all purchases except for construction, a copy of a home purchase contract or a settlement sheet or estimated settlement sheet;

(2) For construction, a home construction contract. If a single home construction contract is unavailable, additional contracts, building permits, receipts, assessments, or other documentation that demonstrates the construction of an entire primary residence and expenses in the amount of the loan may be accepted.

(f) The documentation provided under this subparagraph must bear a date that is no more than 24 months preceding the date of application.

§ 1655.21 Education loans.

(a) An education loan will be made only for those education expenses of a participant, the participant's spouse, or the participant's dependents, which the participant has paid or expects to pay

(b) A dependent is any person whom the participant could claim as a dependent for Federal income tax purposes at the time the participant applies for the loan.

(c) Education expenses are any expenses that are necessary for a course of instruction at an educational institution. Such expenses include tuition and fees, room and board, and books and supplies that are required for the course of instruction, or other items that the institution states in writing are required for the course of study Room and board may be considered an education expense, even if not provided by the educational institution, if it does not exceed the reasonable cost of room and board provided by the institution or available in the geographic area where the institution is located, and the institution states this in writing.

(d) An educational institution is an entity whose primary function is formal instruction. It includes primary and secondary schools, colleges and universities, and vocational and technical schools It does not include courses given by a museum, business, professional association, or other institution, if that institution's primary function is not formal instruction. It does not include an entity whose primary function is child care

(e) The documentation required for a loan under this section is as follows:

(1) For tuition, fees, and room and board provided by the institution, copies of bills or receipts from the educational institution with the student's name appearing on the bill or receipt or a written statement from the institution stating the expected costs the student will bear in the following year and documentation indicating that the student is or will be enrolled;

(2) For room and board not supplied by the institution, the written statement identified in paragraph (c) of this section and a document indicating that the student is or will be enrolled;

(3) For books or supplies, copies of bills for books, supplies, etc., and documentation indicating that the student is or will be enrolled.

(f) The documentation required under this section must bear a date no more than 12 months preceding the date of application.

§ 1655.22 Medical loans.

(a) A medical loan will be made only for medical expenses of the participant, the participant's spouse, or the participant's dependents which are eligible for deduction under section 213 of the Internal Revenue Code (without reference to any percentage of income limitation on the deductibility of such expenses). Examples of such medical expenses include, but are not limited to, the following:

(1) Doctor and hospital bills;

(2) Medical supplies and devices prescribed by a physician,

(3) Drugs prescribed by a physician;

(4) Insulin (whether or not prescribed by a physician);

(5) Health insurance premiums; and

(6) Other items or services, such as travel and accommodations, if prescribed by a physician.

(b) A loan will be made only for medical expenses that are not covered by medical insurance

(c) Acceptable documentation of medical expenses includes the following:

(1) Copy of Explanation of Benefits from the insurer;

(2) Copies of bills on medical service provider's official letterhead showing expenses and, if applicable, prescription numbers;

(3) Copies of bills for other services accompanied by a copy of a physician's statement that these services are required for medical reasons Copies of estimated bills for future treatment, e.g., physical therapy or procedures, may be submitted;

(4) Copies of bills for medical insurance or copies of earnings and leave statements showing payroll deductions for health insurance

(d) Any documentation submitted to support an application for a loan for medical expenses must bear a date no more than 12 months before the date of application. The applicable date is the date of the Explanation of Benefits or physician's bill, not the date the services were actually performed.

§ 1655.23 Hardship loans.

(a) Hardship means immediate and heavy financial needs for which other financial resources are not reasonably available.

(b) A participant will receive a hardship loan if he or she meets certain tests prescribed by the Executive Director to evaluate the following aspects of financial hardship:

(1) Whether a participant's cash flow and financial assets are adequate to cover his or her ordinary expenses; or

(2) Whether the participant has extraordinary expenses, as defined in paragraph (b)(3) of this section, which cannot be met by monthly cash flow and existing financial assets;

(3) Extraordinary expenses are defined as one of the following:

(i) The cost of household improvements or household help required as a result of illness of or

accident to the participant, the participant's spouse, or the participant's dependents which:

(A) Is not yet paid for;

(B) Was incurred no more than 12 months before the date of application or will be incurred over no more than 12 months after the date of application;

(C) Is not eligible for deduction as a medical expense for Federal income tax purposes; and

(D) Is not covered by insurance.

Household improvements are changes to the participant's living quarters or the installation of special equipment that is necessary to accommodate the circumstances of the incapacitated person. Household help is the service of a person who is hired to do housework that the incapacitated person ordinarily performs but can no longer perform;

(ii) Uninsured personal casualty loss within 12 months of the date of application that would be eligible for deduction for Federal income tax purposes. This is sudden property loss resulting from damage or destruction by fire, storm, or other casualty, or due to theft of property;

(iii) Unpaid legal costs associated with separation or divorce that were incurred no more than 12 months before the date of application or will be incurred over no more than 12 months after the date of application.

§ 1655.24 Appeals.

When a loan request is disapproved, in whole or in part, the person making the loan request may make the following appeals:

(a) The participant may write to the recordkeeper asking the recordkeeper to review the loan to see if proper procedures were followed. Such request must be received by the recordkeeper within 30 days of the date of the notice disapproving the loan or the expiration of the 45-day period described in section 1655.11(c), whichever is earlier. The recordkeeper will respond to this request within 30 days of the date it is received;

(b) If the recordkeeper does not respond to a request under paragraph (a) of this section within the 30-day period, or, if the recordkeeper reaffirms its disapproval, the participant may appeal to the Executive Director. Such appeal must be written, signed by the participant, and received by the Board within 30 days of the recordkeeper's response or, if there has been no response, within 30 days of the expiration of the 30 day response period asking for a review of the recordkeeper's decision. The Executive Director will respond to the appeal within 30 days of the date it is received. The Executive Director may extend this 30-day period for reasonable cause with notice to the participant. Any action by the Executive Director will be in writing and will be signed by the Executive Director or his designee. If any of the 30-day periods referred to in this section ends on a Saturday, Sunday, or Federal holiday, the deadline will be the next business day;

(c) The record for review by the Executive Director will include, in addition to any other relevant facts, the loan application, Loan Agreement/Promissory Note (if applicable), receipts or other written documentation that the applicant had submitted to the recordkeeper, and any record of communications between the applicant and the recordkeeper. The Executive Director's decision on the appeal will be in writing, setting forth the reason(s) for the decision;

(d) An appeal under this section will be accepted only if it is in writing and is signed and dated by the participant who applied for the loan.

[FR Doc. 90-555 Filed 1-9-90; 8:45 am]

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federal register

Wednesday
January 10, 1990

Part IV

Department of Transportation

Federal Aviation Administration

14 CFR Parts 27 and 29

Helicopter Instrument Flight; Withdrawal of Notice of Proposed Rulemaking; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 27 and 29

[Docket No. 25010; Ref. Notice No. 86-7]

RIN 2120-AB87

Helicopter Instrument Flight; Withdrawal of Notice of Proposed Rulemaking

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM); withdrawal.

SUMMARY: This document withdraws an NPRM which proposed to amend the Federal Aviation Regulations to provide helicopter instrument flight airworthiness standards for approach and landing phases to permit flight at airspeeds below the normal minimum instrument flight speed (V_{MINI}). The objective of the NPRM was to permit decelerating instrument approaches and thus shorten required landing distances. The FAA has carefully considered all of the comments received in response to the NPRM, the comments made at a public meeting, and the results of further research flight tests. As a result, the FAA has concluded that additional study is required to identify what is required to permit the decelerating approaches; accordingly, the NPRM is being withdrawn.

FOR FURTHER INFORMATION CONTACT: Mr. Jim S. Honaker, Rotorcraft Standards Staff, Regulations Group, Aircraft Certification Service, FAA, Fort Worth, Texas 76193-0111, telephone (817) 624-5109, FTS 734-5109.

SUPPLEMENTARY INFORMATION:

Background

The airworthiness standards for the helicopter instrument flight (IFR) rules were adopted in Amendments 27-19 and 29-21 (48 FR 4392; January 31, 1983) and included a validation of positive longitudinal static stability. The minimum speed used in this validation becomes the minimum authorized airspeed, V_{MINI}, to be used during all instrument flight. Helicopter certification applicants since that time have not selected or demonstrated a V_{MINI} below 40 knots. Essentially, all applicants have selected 50 knots or above.

The FAA and NASA have continued helicopter IFR research and analysis. By 1986, the FAA considered that sufficient data had become available to identify minimum equipment and stability characteristics to permit decelerating approaches to airspeeds as low as 20 knots. Decelerating to zero airspeed (IFR hover) was not considered since research indicated that significantly more equipment would be required. These low airspeeds would only be used during approaches (and missed approaches) and not for any en route flight. Approach speeds lower than V_{MINI} would allow shorter distances (clear ground space) to slow the helicopter to landing or zero speed after entering visual meteorological conditions at the approach decision height. Notice 86-7 (51 FR 21488; June 12, 1986) proposed minimum equipment and stability requirements for these low speed approaches.

Discussion of Comments

The written comments and comments received at a public meeting in Fort Worth, Texas, on March 5, 1987 (51 FR 45424; December 18, 1986), resolved into one new, major proposal. This new proposal would permit decelerating approaches but would not specify minimum equipment or stability requirements. Rather, an applicant would be required to demonstrate at least 50 approaches (95 percent satisfactory) remaining within certain deviation limits of glide slope and localizer and arriving within a specified "window" at minimum decision heights. Satisfactory pilot workload and other factors would be rated by several pilots, including the applicant and FAA pilots, during the 50 approaches to obtain final approval. This would be comparable to the final approval concept the FAA uses for Category II and III approaches (approaches with decision heights of less than 200 feet).

At the public meeting, there was also a suggestion that the requirements proposed in Notice 86-7 could include the recommended new proposal as an alternate means of compliance. This received only limited support at the public meeting and in the written comments that followed.

The FAA recognizes the potential merit of the new proposal and its comparability to established concepts. The FAA is also continuing IFR approach flight test research. Review of the airspace requirements for an urban heliport also indicates that studies and tests of required airspace would be significantly impacted by the proposed deviations permitted from glide slope and localizer paths. Therefore, the size of approach path deviations and the decision height "window" must be further investigated and established before the proposed concept could be further considered.

Reasons for Withdrawal

Based on the information and comments received in response to Notice 86-7, the FAA has determined that there is adequate justification to further investigate the new proposal that is beyond the scope of Notice 86-7. Because additional study and flight tests will be required to arrive at a proposal that may include parts of Notice 86-7, as well as the new proposal, it is in the best interest of all concerned to withdraw Notice 86-7. Based on the record of this proceeding and the requirement of Executive Order 12291 (46 FR 13193; February 19, 1981), this rulemaking should be terminated for the present time.

The Decision and Withdrawal

Accordingly, the FAA concludes that further rulemaking on Notice 86-7 should not proceed at this time. Therefore, Notice 86-7 (51 FR 21488, June 12, 1986) is withdrawn. This action does not preclude the FAA from considering similar proposals in the future or commit it to any further or future course of action on this subject.

1. The authority citation for part 27 continues to read as follows:

Authority: 49 U.S.C. 1344, 1354(a), 1355, 1421, 1423, 1425, 1428, 1429, 1430; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983).

2. The authority citation for part 29 continues to read as follows:

Authority: 49 U.S.C. 1344, 1354(a), 1355, 1421, 1423, 1424, 1425, 1428, 1429, 1430; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983).

Issued in Washington, DC, on 3 January 1990.

Thomas E. McSweeny,

Acting Director, Aircraft Certification Service.

[FR Doc. 90-596 Filed 1-9-90; 8:45 am]

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federal register

Wednesday
January 10, 1990

Part V

Department of Defense
General Services Administration
National Aeronautics and Space Administration

48 CFR Part 33

Federal Acquisition Regulation (FAR); Submission and Disposition of Agency Protests; Proposed Rule

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 33

Federal Acquisition Regulation (FAR); Submission and Disposition of Agency Protests

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

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulatory Council are considering a change to Federal Acquisition Regulation (FAR) 33.103 and 33.104 pertaining to procedures governing agency protests. The regulation is intended to provide standard timeframes for filing of agency level protests, and a clear format for such protests.

DATE: Comments should be submitted to the FAR Secretariat at the address shown below on or before March 12, 1990 to be considered in the formulation of a final rule.

ADDRESS: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets, NW, Room 4041, Washington, DC 20405.

Please cite FAR Case 89–38 in all correspondence related to this issue.

FOR FURTHER INFORMATION CONTACT: Margaret A. Willis, FAR Secretariat, Room 4041, GS Building, Washington, DC 20405, (202) 523–4755.

SUPPLEMENTARY INFORMATION:

A. Regulatory Flexibility Act

Analysis of the proposed revision indicates that it is not a "significant revision" as defined in FAR 1.501, i.e., it does not alter the substantive meaning of any coverage in the FAR having a significant cost or administrative impact on contractors or offerors, or have significant effect beyond the internal operation procedures of the issuing agencies.

Accordingly, and consistent with section 1212 of Public Law 98–525 and section 302 of Public Law 98–577 pertaining to publication of proposed regulations (as implemented in FAR subpart 1.5, Agency and Public Participation) solicitation of agency and public views on the proposed revision is not required. Since such solicitation is not required, the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*) does not apply.

B. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed changes to the FAR do not impose recordkeeping information collection requirements or collection of information from offerors, contractors, or members of the public which require the approval of OMB under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 33

Government procurement.

Dated: January 2, 1990.

Jeremy F. Olson,

Acting Director, Office of Federal Acquisition Policy.

Therefore, 48 CFR part 33 is amended as set forth below:

PART 33—PROTESTS, DISPUTES, AND APPEALS

1. The authority citation for 48 CFR part 33 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

2. Section 33.103 is revised to read as follows:

33.103 Protests to the agency.

(a)(1) The objectives of the following procedures are to resolve agency protests effectively, to help build confidence in the Government's acquisition system, and to reduce protests to the GAO or GSBCA.

(2) When a protest is filed only with the agency, an award shall not be made until the matter is resolved unless the contracting officer or other designated official first determines, in writing, that one of the following applies:

(i) The supplies or services to be contracted for are urgently required.

(ii) Delivery or performance will be unduly delayed by failure to make award promptly.

(iii) A prompt award will otherwise be advantageous to the Government.

(3) When a protest against the making of an award is received and award will be withheld pending disposition of the protest, the offerors whose offers might become eligible for award should be informed of the protest. If appropriate, those offerors should be requested, before expiration of the time for acceptance of their offer, to extend the time for acceptance to avoid the need for resolicitation. In the event of failure to obtain such extensions of offers, consideration should be given to proceeding with award under subparagraph (a)(2) of this section.

(4) Protests received after award filed only with the agency shall be handled in accordance with agency procedures. The contracting officer need not suspend contract performance or terminate the awarded contract unless it appears likely that an award may be invalidated and a delay in receiving the supplies or services is not prejudicial to the Government's interest. In this event, the contracting officer should consider seeking a mutual agreement with the contractor to suspend performance on a no-cost basis.

(b) *Procedures.* (1) Agency protests may be submitted by interested parties to the individual or location designated in the clause at 52.233–2, Service of Protest. The designated person is normally the contracting officer.

(2) Protests based on alleged improprieties in a solicitation which are apparent prior to bid opening or the closing date for receipt of proposals shall be filed prior to bid opening or the closing date for receipt of proposals. In all other cases, protests shall be filed not later than 10 working days after the basis of protest is known or should have been known, whichever is earlier. This time limit may be waived at the agency's discretion.

(3) Protests shall include the following information:

(i) Name, address, and telephone number of the protester.

(ii) Solicitation or contract number.

(iii) Detailed statement of the legal and factual grounds for the protest, including copies of relevant documents.

(iv) Request for a ruling by the agency.

(v) Statement as to the form of relief requested.

(4) Protest shall be concise, and logically presented to facilitate review by the agency. Failure to comply with any of the above requirements may be grounds for dismissal of the protest.

33.104 [Amended]

3. Section 33.104 is amended by removing in the second sentence of paragraph (b)(3) the words "in accordance with 14.404–1(d)".

[FR Doc. 90–566 Filed 1–9–90; 8:45 am]

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